



Crl.O.P.No.18583 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 07.01.2025

Orders Pronounced on : 04.03.2025

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.18583 of 2023

and

Crl.M.P.No.12364 of 2023

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Nithyalakshmi

.. Petitioner

Vs.

1. The State rep by its  
Inspector of Police,  
J-3, Adyar Police Station,  
Chennai – 600 009.

2. Mrs.Jessy Shibu George

.. Respondents

Criminal Original Petition filed under Section 482 Cr.P.C., to call for entire records in Crime No.85 of 2023 on the file of the first respondent Police and quash the FIR against the petitioner.

For Petitioner : Mr.L.Infant Dinesh

For Respondents : Mr.S.Sugendran  
Additional Public Prosecutor for R1  
Mr.E.Felix Parthiban for R2



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## **ORDER**

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This Criminal Original Petition is filed to quash the F.I.R. in Crime No.85 of 2023 pending on the file of the first respondent-Police, against the petitioner herein.

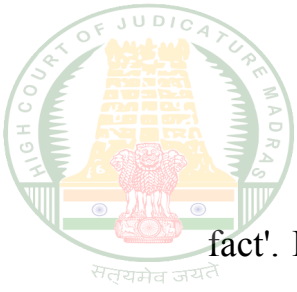
2. On the complaint given by one Jessu Shibu George, a case in Crime No.85 of 2023 was registered against the petitioner herein and two others for the offences under Sections 406 and 420 IPC, by the first respondent – Police. The petitioner has been arrayed as A3. Pending investigation, the petitioner-A3 approached this Court by way of filing a petition in Crl.O.P.No.18583 of 2023 seeking to quash the F.I.R. in Crime No.85 of 2023 against her. This Court, *vide* order dated 16.08.2023 dismissed the petition and directed the respondent-Police to proceed further with investigation and to file a final report within a period of six months from the date of receipt of copy of the order. Aggrieved by the said order, the petitioner preferred S.L.P.(Criminal) No.10910 of 2023 and the Hon'ble Apex Court, by order dated 14.08.2024 partly allowed the petition and



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remanded back the matter to this Court for fresh consideration. Once again, this Court taken up the matter on 11.09.2024 and after considering the submissions urged on behalf of the parties, disposed of the petition by directing the respondent-Police to complete the investigation within a period of two months and to file a final report based on the materials collected. Challenging the said order dated 11.09.2024, the petitioner again filed a petition in S.L.P.(Criminal) No.13556 of 2024, which came to be partly allowed on 25.11.2024 and the case was remanded back to this Court for fresh consideration. Now the captioned Criminal Original Petition is listed before this Court.

3. Learned counsel for the petitioner submitted that *prima facie* there is no allegation made out against the petitioner, as if, she had cheated and misappropriated the amount to the *de-facto* complainant. Even before filing of the complaint in Crime No.85 of 2023, the *de-facto* complainant had already given a complaint before the Economic Offence Wing [E.O.W.] with the same set of facts that the accused persons have cheated an amount of Rs.73,69,500/- and the same was investigated and closed as a 'mistake of



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fact'. However, in the said complaint, the petitioner has not been shown as an accused. Subsequently, the *de-facto* complainant willfully included the name of the petitioner as an accused and filed the present complaint in Crime No.85 of 2023 stating that the petitioner along with two other accused cheated an amount of Rs.49,69,500/-. There are several contradictions in the complaint given before E.O.W. and the present complaint. He further submitted that the complainant suppressing the complaint before E.O.W., had preferred a direction petition under Section 156(3) Cr.P.C. before the learned IX Metropolitan Magistrate, Saidapet, Chennai and pursuant to the directions of the Magistrate, the present complaint was registered. He further submitted that as far as the petitioner is concerned, there is no privity of contract even according to the complainant except to say that A1 and the petitioner are known to each other and the complainant was introduced to the petitioner by A1. Further, the present complaint does not disclose any money transaction between the petitioner and the complainant, except making vague and bald allegation that a portion of the money by cash has been given to the petitioner, the particulars like how much and when the money paid are not found in the complaint. It is



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seen from the allegations made in the F.I.R. that the transaction alleged by the complainant is between A2 and the complainant, but not with the petitioner. Therefore, the petitioner had no iota of role in the alleged commission of offence, but she was falsely roped as A3 in the F.I.R.

4. Learned counsel for the petitioner further submitted that the dispute between the parties is purely civil in nature and there is no money transaction between the petitioner and the *de-facto* complainant, but the first respondent-Police without conducting any preliminary enquiry had registered the FIR against the petitioner. The complaint was filed only with a motive to harass the petitioner. He further submitted that there is undue delay in filing the complaint and registering the F.I.R. and the same was not duly explained by the complainant. Therefore, the learned counsel for the petitioner prays to quash the complaint.

5. Learned Additional Public Prosecutor appearing for the first respondent-Police submitted that the complaint given by the *de-facto* complainant discloses the commission of cognizable offences against the



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petitioner herein and the first respondent-Police registered the case against the petitioner and two other accused. He further submitted that the first respondent-Police is not aware of the allegations levelled in the earlier complaint given before E.O.W. by the complainant. Only after completion of investigation, the involvement of the petitioner in the alleged commission of offence and other facts would come to light. The petitioner herself stated that she was not arrayed as accused in the earlier complaint, therefore, the present complaint is not a bar to proceed further. Therefore the petition filed by the petitioner has to be dismissed.

6. Heard both sides and perused the materials available on record.

7. Admittedly, the first respondent-Police registered a case in Crime No.85 of 2023, on the complaint given by the second respondent herein for the offences under Sections 406 and 420 IPC against the petitioner herein and two others on 07.05.2023. The allegations made in the complainant



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against the petitioner and two other accused are that the second respondent-

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*de-facto* complainant was running a boutique in the name and style of M/s.Vastra by Jessy. One Ms.Mercy Deepika-A1, who is the friend of the *de-facto* complainant had introduced the petitioner herein - A3 as Chairman of Food Corporation of India in the year 2019 and that the petitioner has become a customer of the complainant. It is alleged that the petitioner-A3 and A1 had introduced the *de-facto* complainant to one JSP Finance Company as a Micro Finance Company and told that being the agents of the said Company they would arrange loans for developing the complainant's Company and also introduced one Sathya Priya-A2, who is the staff of the said Company. While that being so, the *de-facto* complainant had sought a loan of Rs.24 lakhs in the said JSP Finance Company. Thereafter, A2, informed the complainant that a sum of Rs.4 lakhs has to be deposited towards initial deposit with the said Company and hence, the complainant arranged the said amount and the same was given to A2. Subsequently, A2 approached the complainant and her friends, who are involved in business activities and assured the *de-facto* complainant as well as her friends that she would arrange 16 such number of loans for a sum of Rs.12 lakhs each



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for developing their business. For which, A1 asked a sum of Rs.2,00,000/- as an initial deposit for each loan. Thus, the *de-facto* complainant and her friends had given a total amount of Rs.49,69,500/- to A1 to A3 in cash on various occasions for processing their loan. However, neither the loan was sanctioned nor refunded the amount paid. Since the accused persons have committed the offences of impersonation, cheating, fabrication and misappropriation, the *de-facto* complainant lodged the complaint against A1 to A3.

8. The main contention of the learned counsel for the petitioner is that *prima facie* no allegations are made out against the petitioner herein in the alleged commission of offences. His further contention is that all records pertaining to money transaction through Bank produced by the complainant would only indicate that the money transaction was between the complainant and other two accused i.e., A1 and A2, but not with the petitioner herein-A3. On a perusal of F.I.R., the allegations levelled against the accused persons is that the *de-facto* complainant known the petitioner as a customer and the petitioner along with A1 introduced A2 to her as a staff



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in a Micro Finance and based on the assurance given by the accused persons

A1 to A3 for arranging loan to the complainant and her friends for developing their business, the complainant and her friends paid a sum of Rs. 49,69,500/- for processing the said loan. Despite the amount is paid, the accused persons never arranged loan or repaid the said amount. It is the further contention of the learned counsel for the petitioner that there was a delay in filing complaint and registering the F.I.R. It is seen from the records that the transaction between the complainant and the accused took place in the year 2019-2020, immediately Covid-19 pandemic started.

9. As per the complainant, the accused persons induced the *de-facto* complainant and her friends to pay certain amount and promise to arrange loan, but after receiving the amount neither they had taken steps to sanction the loan nor repaid the amount. Normally, in a case of this nature, it will take some time to realise the fraud committed by accused to the complainant, but that period cannot be construed as delay. Further, as to whether the petitioner along with other accused induced the complainant or not and the petitioner received a portion of the alleged amount or not, will

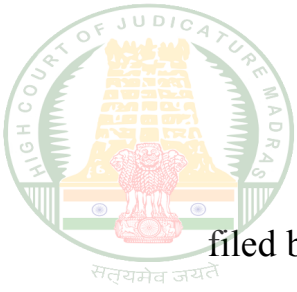


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be revealed only after completion of investigation and not at this stage. This

Court at this stage has to see as to whether *prima facie* allegations levelled against the petitioner are made out or not.

10. It is settled proposition of law that First Information Report is not an encyclopaedia, *prima facie* if any commission of offence alleged to have been put forth in the complaint, it is the duty of the investigating officer to investigate the matter and only after completing the investigation, it would come to light about the involvement of the persons in the alleged commission of offence. In the instant case, the main allegations raised by the complainant is that the accused persons taking advantage of the needs of the complainant and her friends, induced them to pay certain amount and promised them to arrange loan, but after receiving the amount neither they sanctioned loan nor repaid the amount. Therefore, the ingredients of Sections 406 and 420 IPC would attract. As to whether the petitioner also involved in the commission of the offences or not would come to light only after investigation. Further, in the complaint alleged to have been given before the E.O.W. there is no material to show that a detailed report was



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filed by E.O.W. Since the petitioner herself stated that she was not a party in the earlier compliant and she was not aware of the earlier proceedings, after detailed investigation of the case only it would reveal that as to whether the earlier complaint was filed for the same set of offences and the petitioner was involved in that offences. In this regard, it is pertinent to refer the judgment of the Hon'ble Apex Court in the case of ***Superintendent of Police, CBI and Others vs. Tapan Kumar Singh, (2003) 6 SCC 175 : 2003 SCC (Cri) 1305 : 2003 SCC OnLine SC 518 at page 183***, wherein, the Hon'ble Apex Court, has observed as follows :-

"20. It is well settled that a first information report is not an encyclopaedia, which must disclose all facts and details relating to the offence reported. An informant may lodge a report about the commission of an offence though he may not know the name of the victim or his assailant. He may not even know how the occurrence took place. A first informant need not necessarily be an eyewitness so as to be able to disclose in great detail all aspects of the offence committed. What is of significance is that the information given must disclose the commission of a cognizable offence and the information so lodged



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must provide a basis for the police officer to suspect the commission of a cognizable offence. At this stage it is enough if the police officer on the basis of the information given suspects the commission of a cognizable offence, and not that he must be convinced or satisfied that a cognizable offence has been committed. If he has reasons to suspect, on the basis of information received, that a cognizable offence may have been committed, he is bound to record the information and conduct an investigation. At this stage it is also not necessary for him to satisfy himself about the truthfulness of the information. It is only after a complete investigation that he may be able to report on the truthfulness or otherwise of the information. Similarly, even if the information does not furnish all the details he must find out those details in the course of investigation and collect all the necessary evidence. The information given disclosing the commission of a cognizable offence only sets in motion the investigative machinery, with a view to collect all necessary evidence, and thereafter to take action in accordance with law. The true test is whether the information furnished provides a reason to suspect the commission of an offence, which the



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police officer concerned is empowered under Section 156 of the Code to investigate. If it does, he has no option but to record the information and proceed to investigate the case either himself or depute any other competent officer to conduct the investigation. The question as to whether the report is true, whether it discloses full details regarding the manner of occurrence, whether the accused is named, and whether there is sufficient evidence to support the allegations are all matters which are alien to the consideration of the question whether the report discloses the commission of a cognizable offence. Even if the information does not give full details regarding these matters, the investigating officer is not absolved of his duty to investigate the case and discover the true facts, if he can."

12. In the light of the facts narrated above, this Court is of the view that the ingredients of offences and *prima facie* allegations made against the petitioner and others and the innocence of the petitioner herein can be ascertained only after completion of investigation and not at this stage. Therefore, this Court is not inclined to quash the F.I.R. in Crime No.85 of



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2023. However, after the investigation and filing charge sheet if petitioner is aggrieved by the charge sheet/final report, it is open to her to agitate the same in the manner known to law.

13. With the above observations and directions, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

**04.03.2025**

Index : Yes/No  
Neutral Citation Case : Yes/No  
Speaking Order : Yes/No  
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To

1. The Inspector of Police,  
J-3, Adyar Police Station,  
Chennai – 600 009.

2. The Public Prosecutor,  
High Court, Madras.

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**P.VELMURUGAN, J**

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