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Crl.O.P.No.23337 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2025

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.23337 of 2024

and

Crl.M.P.No.13213 of 2024

G.Krishnamurthy

... Petitioner

Vs

1. The State

Rep. by the Inspector of Police,
Vilianur Police Station.
(Crime No.259/2024)

2. V.Seenivasamoorthy

... Respondents

Criminal Original Petition is filed under Section 528 of B.N.S.S.,
to call for the records in Crime No.259 of 2024 dated 15.08.2024 on the file
of the Villianur Police Station, Villianur, Puducherry and quash the same.

For Petitioner : Mr.B.Kumar, Senior Counsel
for M/s.Usha Ramman

For Respondents : Mr.M.V.Ramachandramurthy,
Additional Public Prosecutor (Puducherry)
(for R1)

Mr.K.Sasindran (for R2)



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ORDER

This petition has been filed to quash the First Information Report in Crime No.259 of 2024 on the file of the first respondent Police.

2. The case of the prosecution is that on the complaint lodged by the second respondent, the first respondent registered the First Information Report for the offences punishable under Sections 420 and 34 of IPC, alleging that the petitioner and his parents induced the second respondent to join in the chit conducted by the petitioner's parents. Therefore, believing the said words, the second respondent, from the month of December 2020, deposited a huge amount to the tune of Rs. 2 Crores and 49 lakhs. However, after it matured, the accused persons failed to return the same. Hence, the complaint.

3. The learned Senior Counsel for the petitioner would submit that there are totally three accused; the petitioner is arrayed as the third accused, and the petitioner is none other than the son of A1 and A2. The A1 and A2



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were running the chit and received an amount from the second respondent and failed to repay the same. Insofar as the petitioner is concerned, he is working in Mumbai as an Associate Director of Nuvama Company and drawing a salary for the past several years. In fact, the second respondent was issued cheques by A1 and A2, and both cheques were dishonoured. Now, A1 and A2 are facing prosecution for the offence punishable under Section 138 of the Negotiable Instruments Act (hereinafter referred to as 'the NI Act' for short) in STC No. 15210 of 2024 on the file of the Judicial Magistrate-III, Puducherry.

4. He would also submit that though the second respondent lodged a complaint, the same was not acted upon. Therefore, the second respondent filed a private complaint, and the same was forwarded under Section 156(3) of Cr.P.C. Thereafter, the first respondent registered the First Information Report, including the petitioner also as an accused. He would further submit that no offence is made out against the petitioner, since he never induced the second respondent to deposit any amount. That apart, the petitioner is not running any chit along with his parents.



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5. The learned counsel for the second respondent would submit that the petitioner, along with A1 and A2, induced the second respondent to deposit a huge amount in their chit, and it is an unregistered chit conducted by all the family members. Though the petitioner is working in Mumbai, he is also actively involved in the chit conducted by A1 and A2. Insofar as the cheques issued by A1 and A2, the second respondent proceeded against them for the offence punishable under Section 138 of the NI Act. In the present complaint, it is based on a completely different set of allegations, and it is very much maintainable for the offence punishable under Sections 420 and 34 of IPC. Further, it is only a First Information Report, and it has to be investigated in depth, and as such, it cannot be quashed at its threshold.

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



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7. On a perusal of the First Information Report in Crime No. 259 of 2024, it reveals that even according to the second respondent, the petitioner was connected through phone by A1 and A2; the petitioner assured the second respondent to deposit an amount in the chit conducted by A1 and A2, and he is also having house property at Bangalore and other places. Therefore, the petitioner did not directly involve in the chit conducted by A1 and A2, and the petitioner never approached the second respondent and induced him to deposit an amount in the chit conducted by A1 and A2. Hence, there is absolutely no role played by the petitioner, and he has been implicated as an accused only due to his relationship as the son of A1 and A2. Therefore, on the face value of the First Information Report, it does not constitute any offence against the petitioner. That apart, the second respondent had deposited the amount in the year 2020, whereas the complaint was lodged only in the year 2024. It is also seen that the first and second accused issued cheques, and the same were returned. After initiation of proceedings under Section 138 of the NI Act, the second respondent filed the present complaint.



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8. On a perusal of the complaint lodged by the second respondent for the offence punishable under Section 138 of the NI Act in STC No. 15210 of 2024, pending on the file of the Judicial Magistrate-III, Puducherry, does not whisper any iota of allegations against the petitioner. The first and second accused have dishonestly introduced the second respondent to join in the chit and deposited a huge amount conducted by them. Believing the same words, the second respondent joined the chit run by the first and second accused and deposited a huge amount. Therefore, there is no whisper about the involvement of the petitioner in the chit conducted by the first and second accused, even according to the second respondent. Therefore, in the absence of the ingredients, the alleged offence of cheating under Section 420 of IPC, the First Information Report cannot be sustained and is liable to be quashed. This Court finds that the entire proceedings initiated as against the petitioner under Sections 420 and 34 of IPC cannot be sustained and liable to be quashed.



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9. In view of the above, the First Information Report in Crime No.259 of 2024 is hereby quashed as against the petitioner alone. The first respondent is directed to complete the investigation in Crime No. 259 of 2024 and file a final report against the first and second accused within a period of twelve weeks from the date of receipt of a copy of this order.

10. In the result, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

14.03.2025

Index:Yes/No
Neutral Citation/Yes/No
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To

1. The Inspector of Police,
Villianur Police Station,
Villianur,
Puducherry.
2. The Public Prosecutor,
High Court of Madras.



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G.K.ILANTHIRAIYAN, J.

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