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CrI.O.P.No.29256 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.12.2024

PRONOUNCED ON : 31.01.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.No.29256 of 2024 and
CrI.M.P.No.16405 of 2024

Kanthimathi

W/o.C.Sampath

Government School Headmistress

... Petitioner

Vs.

1. State

Rep. by the Sub-Inspector of Police

District Crime Branch Police Station

Dharmapuri District

Ref: Cr.No.5 of 2024 dated 21.05.2024

U/s.406, 465, 467, 468, 471, 420, 560(1) IPC

2. M.G.Vasanthakumar

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Criminal Procedure Code/528 of B.N.S.S., to call for records in Crime No.5 of 2024 dated 21.05.2024 on the file of the Sub-Inspector of Police, District Crime Branch Police Station, Dharmapuri District, quash the impugned FIR as against the petitioner.



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For Petitioner : Mr.A.Ramesh
Senior Advocate
for Mr.B.A.Sujay Prasanna
For 1st Respondent : Mr.S.Sugendran
Additional Public Prosecutor
For 2nd Respondent : Mr.G.Harihara Arun Soma Sankar
for Mr.V.Deepanraj Krishna

ORDER

This Criminal Original Petition has been filed by the petitioner to quash the FIR registered against her in Crime No.5 of 2024, dated 21.05.2024, on the file of the first respondent police.

2. The crux of the prosecution case is that the second respondent invested Rs.2 Crore in various installments in a private school, run by the accused, vide Memorandum of Understanding and Partnership Deed. As per the deeds, the second respondent is entitled to proportionate shares in the assets of the school and also in the profits & goodwill of the school. However, the school correspondent/A1 neither registered the property in favour of the second respondent nor provided a share of profit or goodwill nor returned the



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invested capital to the second respondent. Hence, based on the complaint given by the second respondent, the first respondent police registered the case in Crime No.5 of 2024, dated 21.05.2024, against 15 persons for the offences under Sections 406, 465, 467, 468, 471, 420 and 506(1) of IPC, in which, the petitioner has been arrayed as 4th accused.

3. The learned counsel for the petitioner submitted that except for an omnibus allegation, there is no material against the petitioner. A dispute between partners on share of profit or return of capital does not attract criminal liability. A time barred civil suit has transformed into a criminal prosecution. The second respondent/defacto complainant has suppressed several material facts in the complaint and further, there is inordinate delay in launching prosecution coupled with time-barred civil remedies. Therefore, the FIR has to be quashed.

4. The learned counsel for the second respondent/defacto complainant submitted that all the accused including the petitioner acted as agents of



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Munirathinam who is the prime accused in this case. The petitioner is also named in the FIR and she has been arrayed as 4th accused and there is a specific allegation against the petitioner also. All the accused committed the alleged offences which would come into light only during investigation. Therefore, this petition is premature and the same is liable to be dismissed.

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

6. A perusal of record shows that based on the complaint given by the second respondent, the first respondent police registered the case in Crime No.5 of 2024 dated 21.05.2024 against the petitioner and 14 others for the offences under Sections 406, 465, 467, 468, 471, 420 and 506(1) of IPC, in which, the petitioner has been arrayed as 4th accused.

7. Though the petitioner states that the dispute between partners on share of profit or return of capital does not attract criminal liability, a perusal of the complaint in the FIR shows prima facie allegations against the accused and there is a specific allegation against the petitioner also. Only if the respondent



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police is allowed to conduct the investigation, it would come to light as to whether the allegations are in the nature of civil dispute or criminal dispute. At this stage, it cannot be decided as to whether the dispute is civil in nature or criminal in nature. The grounds taken by the petitioner are nothing but defense which cannot be decided at this stage.

8. Therefore, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

9. The petitioner is directed to extend her co-operation for investigation and the first respondent police is directed to complete the investigation and file the charge sheet within a period of four months from the date of receipt of a copy of this order.

31.01.2025

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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Note:Issue Order Copy on 31.01.2025.

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To

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1. The Sub-Inspector of Police
District Crime Branch Police Station
Dharmapuri District
2. The Public Prosecutor
High Court of Madras



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P.VELMURUGAN. J.

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Pre-Delivery Order in
CrI.O.P.No.29256 of 2024

31.01.2025