

Crl.O.P.(MD)No.8391 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2025

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.8391 of 2024

and

Crl.M.P(MD) Nos.5730 and 5732 of 2024

1. Hema
2. Siva
3. Mathiyalagan
- 4.Thilakarasi

.. Petitioners

Vs.

1. The Inspector of Police
Sendhamarai Police Station
Tenkasi District

2. K.C.Sathiya

.. Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records relating to CC No.950 of 2023 on the file of the learned Judicial Magistrate, Tenkasi and quash the same as against the petitioners

For Petitioners : Mr.C.Muthusaravanan

For Respondents : Mr.M.Vaikkam Karunanithi
No.1 Government Advocate(Crl.Side)
No.2 : Mr.S. Palanivelayutham



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ORDER

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This Criminal Original Petition has been filed to quash the proceedings in C.C.No.950 of 2023 on the file of the learned Judicial Magistrate, Tenkasi.

2. The case of the prosecution is that the first accused is closely associated with the family members of the defacto complainant and his business. Whiles, A1 to A4 obtained money from the defacto complainant to the tune of Rs.1,61,36,000/- and also obtained gold jewels weighing about 118 sovereigns and also taken four mobile phones worth about Rs.1,62,000/-. When the same was asked by the defacto complainant the petitioners used obscene words and caused criminal intimidation. Therefore lodged complaint before the learned Judicial Magistrate, Tenkasi and the same was forwarded to the first respondent and they registered a case in Crime No.98 of 2022 for the offences under Sections 294(b),120(b),506(ii), 420 and 34 of IPC. Thereafter the first respondent conducted investigation and filed final report and now the petitioners who are the accused are challenging the final report.



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3. The learned counsel appearing for the petitioners would submit that the defacto complainant lodged complaint against the petitioners alleging that the defacto complainant and her husband are running business in the name and style of Sathya Wood Industries in kadaiyalurutti village. The first accused along with the other accused approached the husband of the defacto complainant as online customer for the purchase of teak wood windows, teak wood doords and other high valued wood products in whole sale and retail manner . While so the father of the defacto complainant namely Kalimuthu Nadar was well acquainted with the family members of the petitioners and they have build a close relationship with great hope in all aspects both personally and also in their business. The defacto complainant had transferred various payments to the petitioners 1 and 3 for various purpose and also pledged 252 gms of gold for the petitioners 1 and 2 and also four mobile phones worth about Rs. 1,62,000/-were taken by the petitioners by giving false hope and words. Therefore complaint was lodged before the learned Judicial Magistrate, Tenkasi and the same was forwarded to the first respondent. Infact no such occurrence was happened and there is no money transaction between the first petitioner and the fourth accused . The first accused got acquaintance



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with the defacto complainant through face book and were very good friends and the second petitioner belongs to fishermen community and the third petitioner involved in the business of export, import of sea products etc. The second petitioner is also a sea man. The petitioner is an income tax payee and being head of Fishermen community in their village, the petitioners were not depending upon any person for the sake of money at any point of time and also having good reputation in their village. The defacto complainant inorder to avoid income tax problems requested the first petitioner to open an account in her name to make transactions for her business purpose and also used to transfer money in the said account and asked the first petitioner to the persons whom she mentioned. At the request of the defacto complainant the first petitioner agreed to transfer money in her father's account ie., the third petitioner herein. Believing her friendship as true the petitioners have no doubt in her intention also. The intention of the defacto complainant is to harass the petitioners, thereby she filed a petition before the learned Judicial Magistrate, Tenkasi and the learned Magistrate also without any prima facie materials had forwarded the same to the first respondent police without verifying the veracity of the complaint had registered a case. No offence is made out as against these petitioners. Infact the first petitioner filed a suit for defamation by



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claiming compensation of Rs.10,00,000/- from the defacto complainant in O.S.No.33 of 2022 before the Sub Court, Nagapattinam and the same is pending. At the instigation of defacto complainant her relative Rajamanickam filed a suit in O.S. NO.131 of 2022 before the Additional District Court, Tenkasi and the same is also pending. The petitioners have not committed any offence as alleged in the complaint and a false complaint has been lodged. The offences under Sections 294(b),120(b), 506(ii), 420 and 34 of IPC would not attract as against these petitioners and in the absence of any ingredients to attract the above said offences . The complaint itself is lodged with malafide intention and thereby the pending proceedings are liable to be quashed.

4. The learned counsel appearing for the second respondent would submit that the second petitioner is the close family friend of the defacto complainant and taking advantage of the same he along with others accused have taken a sum of Rs.1,61,36,000/-. Though the defacto complainant has entrusted 252 grams of gold to the petitioner they have never returned the jewels nor repaid the money and cheated the defacto complainant. They have also taken four cell phones worth about Rs.1,62,000/-, hence she lodged a complaint before the learned Judicial



Magistrate, Tenkasi and the Magistrate applied his mind and passed a judicial order that there are prima facie materials available to constitute the offence and thereby forwarded the complaint to the first respondent police and they registered a case and thereafter they conducted detailed investigation and filed final report. There are so many allegations as against these petitioners and the same can only be tested through trial, therefore the petition is liable to be dismissed.

5. The learned Government Advocate(Crl.Side) appearing for the first respondent would submit that the defacto complainant filed a petition before the learned Judicial Magistrate, Tenkasi in Crl.M.P.No.1 of 2022 and the same was forwarded to the first respondent police and they registered a case. Thereafter they conducted detailed investigation and filed final report. The trial Court after satisfying that there are prima facie materials available had taken cognizance and the same is pending and it is matter for trial, thereby the petition is liable to be dismissed.

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

7. The second respondent lodged a complaint before the learned Judicial Magistrate, Tenkasi and the same was forwarded to the first



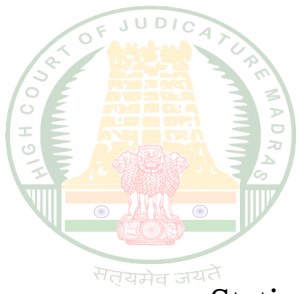
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respondent and the first respondent registered a case in Crime No.98 of 2022 for the offences under Sections 294(b),120(b),506(ii), 420 and 34 of IPC. As per the allegations there are some money transactions between the parties and the petitioners received a sum of Rs.1,61,36,000/- but the same was not repaid. Apart from money transaction the second respondent also entrusted custody of 118 sovereigns of gold jewels to the petitioners and the same was not returned. Therefore there are serious allegations against the petitioners, thereby it needs elaborate trial. It is admitted that no charges have been framed. The trial Court is directed to take appropriate decision while framing charges based on the available materials. Therefore the matter needs elaborate trial and at this stage the case cannot be quashed, since there are serious allegations to constitute the offence, therefore the petition has no merits and deserves to be dismissed.

8. At this juncture, the learned counsel appearing for the petitioner relied on the following judgments:

- a) Vijay Kumar Ghai .vs. The State of West Bengal
- b) Kishan Singh (D) through L.Rs .vs. Gurpal Singh and Ors
- c) Paramjeet Batra .vs. State of Uttarkhand reported in (2013)11

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d) Mariam Fasihuddin and another .vs. State of Adugodi Police
Station and another

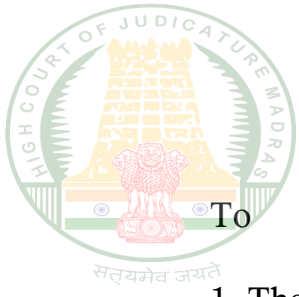
e) Mano .vs. State of Kerala reported in 2015 SCC Online Ker 22214

9. On careful perusal of the above said judgments they will not be applicable to the present facts of the case. In this case there are some serious allegations and the learned Magistrate also after applying his judicial mind forwarded the complaint to the first respondent and the first respondent police conducted detailed investigation and filed final report . As per the investigation there are prima facie materials available , thereby the case laws referred by the learned counsel appearing for the petitioner will not be applicable to the facts of the present case.

10. Accordingly the Criminal Original Petition stands dismissed.
Consequently connected miscellaneous petitions stand closed.

25.04.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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1. The Judicial Magistrate, Tenkasi
2. The Inspector of Police
Sendhamarai Police Station
Tenkasi District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL,J.

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