



Crl.O.P(MD)No.9046 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2025

CORAM

THE HONOURABLE MR.JUSTICE P.DHANABAL

Crl.O.P(MD)No.9046 of 2024

and

Crl.M.P(MD)No.6210 of 2024

Sheela

... Petitioner

Vs.

1.The State,
Represented by,
The Inspector of Police,
Cantonment Police Station,
Trichy City.
Crime No.2221 of 2023.

2.R.Arputharaj

... Respondents

Prayer : Criminal Original Petition filed under Section 528 of B.N.S.S., 2023, to call for records pertaining to the FIR in Crime No.2221 of 2023 on the file of the first respondent police and quash the same as illegal in so far as the petitioner's concerned and pass such further or other orders as this Court.



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For Petitioner : Mr.B.Ramnath
For R-1 : Mr.M.Sakthi Kumar
Government Advocate (Crl. Side)
For R-2 : Mr.A.Vadivel

ORDER

This petition is filed by the petitioner to quash the FIR in Crime No.2221 of 2023 on the file of the first respondent police.

2. The case of the prosecution is that the de facto complainant was searching for job of his son. Accordingly, one Lakshmi approached the complainant and gave assurance for his son's employment since her friend, namely, Mariyappan was employed at Tamil Nadu State Transport Corporation as Supervisor and the said Mariyappan also informed that he was a very influential person in political and other Department. Therefore, the said Mariyappan has demanded a sum of Rs.8,00,000/- for the de facto complainant's son's job. Accordingly, on 02.10.2019, the complainant paid a sum of Rs.8,00,000/- to the Mariyappan and he told that the same was given to his wife, Sheela. Thereafter, the said Mariyappan has not arranged job to the



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petitioner's son and failed to return the amount. Thereafter, he lodged a complaint before the District Legal Service Authority, Trichy. At the time of enquiry, the second accused Lakshmi paid a sum of Rs.50,000/- through online to the complainant and the first accused Mariyappan gave a sum of Rs.50,000/- and they assured to pay the remaining amounts very soon but the said amount was not repaid. Therefore, the petitioner lodged a complaint before the learned Magistrate under Section 156(3) of Cr.P.C and the same was forwarded to the first respondent police and they registered a case in Crime No.2221 of 2023 for the offences under Section 420 of the Indian Penal Code, 1860. Now the said FIR is under challenge.

3. The learned Counsel appearing for the petitioner would submit that the petitioner is the wife of one Mariyappan and the second respondent lodged a complaint alleging that the said Mariyappan borrowed money of Rs.8,00,000/- for getting job for his son and thereafter, he has not paid. The de facto complainant / second respondent approached the husband of the petitioner through one Lakshmi, who is the second accused herein and they paid a sum of Rs.8,00,000/- to the husband of the petitioner and a sum of Rs.50,000/- was paid to the said Lakshmi, who is the second accused herein as commission and

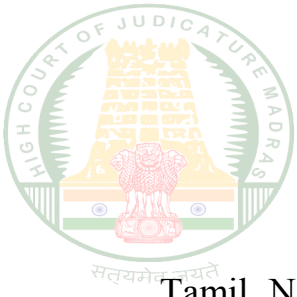


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thereafter, the husband of the petitioner has not repaid any amount and not arranged job. In fact, this petitioner is no way connected with the alleged transaction by her husband. Since the husband of the petitioner no more, now the second respondent lodged a complaint against this petitioner as if the said money was paid to the petitioner. Even as per the FIR, the money was paid to the husband of the petitioner and some amount was shared by the second accused, namely, Lakshmi. The petitioner had already filed HMOP as against her husband in the month of December, 2016 itself. The alleged transaction took place in the year 2019. The petitioner was not residing with her husband on the date of alleged occurrence. Prior to that, they were separated and filed HMOP on the file of the learned Family Court, Trichy in H.M.O.P.No.416 of 2016. Therefore, only because the petitioner is the wife of the main accused, they filed the petition against the petitioner and registered a case. The petitioner is noway connected with the alleged transactions. Therefore, the pending FIR is liable to be quashed.

4. The learned Counsel appearing for the second respondent would submit that the respondent searched job to his son and one Lakshmi introduced the husband of the petitioner, namely, Mariyappan, who was working in the



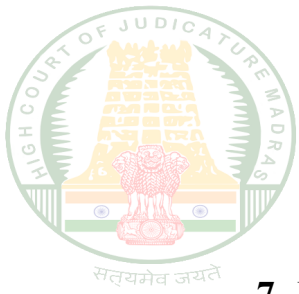
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Tamil Nadu State Transport Corporation as Supervisor and he assured to arrange job to his son and thereby, believing the words, he paid a sum of Rs.8,00,000/- on 02.10.2019. The husband of the petitioner told that the amount should be given to his wife. Therefore, the said amount was handed over to the petitioner and she only utilized the money. Therefore, she is liable to repay the money and thereby, she cheated. Hence, the de facto complainant lodged a complaint and now the case is under investigation. Therefore, at this stage, this petition is liable to be dismissed.

5. The learned Government Advocate (Crl. Side) appearing for the first respondent would submit that based on the complaint lodged by the petitioner before the learned Magistrate Court and the Magistrate has forwarded the complaint to the first respondent and thereby, they registered a case in Crime No.2221 of 2023 for the offences under Section 420 of IPC and now the case is under investigation. Therefore, at this stage, the petition is liable to be dismissed.

6. This Court had heard both sides and perused the materials available on record.



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7. In this case, the prosecution case is that the husband of the petitioner obtained money from the de facto complainant through one Lakshmi for arranging job to the second respondent's son and the said Mariyappan handed over the money to the petitioner. Therefore, the petitioner has not repaid the money and thereby, committed cheating. According to the petitioner, she never received money from the husband and she was separated from the husband in the year 2015 itself and in the year 2016, she filed H.M.O.P against her husband in H.M.O.P.No.416 of 2016 on the file of the Family Court, Trichy. But, the alleged occurrence took place in the year 2019 (i.e.,) on 02.10.2019. Hence, the petitioner is noway connected with the above said transaction and even according to the complaint, the complainant stated that the said Mariyappan told that the money should be given to his wife Sheela but there are no materials that the amount was given to the petitioner.

8. Moreover, in order to attract Section 420 of IPC, there should be some delivery of the property by cheating and dishonestly inducing the person to deliver the property but the petitioner noway connected with the transaction and no money was entrusted to the petitioner and the transactions are between the petitioner's husband and the second respondent. Therefore, there are no



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ingredients to constitute the offences under Section 420 of IPC. Merely because, the petitioner is wife of the main accused and after the death of main accused, the second respondent cannot claim money from the petitioner. Moreover, the complaint was lodged after the demise of the petitioner's husband. The second respondent has not filed any complaint while the main accused Mariyappan was alive. The said Mariyappan died on 10.07.2022 but the complaint was lodged on 02.12.2023. The Trial Court without perusing the complaint simply forwarded the same to the police station. There are no ingredients to constitute the offence under Section 420 of IPC and the pending FIR is clear abuse of process of law. Therefore, the pending FIR is liable to be quashed.

9. In the result, this Criminal Original Petition stands allowed and the pending FIR as against the petitioner is quashed. Consequently, connected Miscellaneous Petition stands closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR



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- 1.The Inspector of Police,
Cantonment Police Station,
Trichy City.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL, J.

BTR

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