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Crl.O.P.No.7099 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2026

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.7099 of 2023 and
Crl.MP.Nos.4477 & 4479 of 2023

1.Nalini

2.Manivannan

... Petitioners

Vs.

1.State by:

The Inspector of Police,
All the Women Police Station,
Salem Town, Salem District

2.Bhavani

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C. praying to call for records and quash the proceedings in CC.No.622 of 2022 on the file of Additional Mahila Court, FTC, Salem as against the petitioners herein.

For Petitioners : Mr.A.Ashwin Kumar

For Respondents

For R1 : Mr.A.Gopinath,
Government Advocate(crl.side)

For R2 : No appearance

ORDER

This criminal original petition has been filed to quash the proceedings in CC.No.622 of 2022 on the file of Additional Mahila Court, FTC, Salem as against the petitioners herein.



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2. The case of the prosecution is that the first accused is the husband of the second respondent. Both fell in love and got married in a temple on 05.06.2013 without the presence of any other family member. After their marriage, they lived together and the first accused promised that he would marry her in the presence of all the relatives. Later, he breached the said assurance and did not marry the second respondent. Further, all the accused persons promised her that the first accused would marry her after a year on 30.08.2018. However, the first accused stated one or other reason and cheated the second respondent by giving false promise to marry her after three months. While it was questioned, all the accused persons threatened the defacto complainant / the second respondent with dire consequences. Hence, a complaint was lodged.

3. On receipt of the said complaint, the respondent registered FIR in crime No.6 of 2018. After completion of investigation, final report was filed for the offence under Sections 417, 420 & 506(i) of IPC and the same was taken cognizance by the trial court. The petitioners are A4 and A5.

4. The learned counsel for the petitioners would submit that even according to the second respondent, there is absolutely no allegation



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against them. Since the fourth accused is the sister of the first accused, she has been falsely implicated as an accused. The fifth accused is none other than the husband of the fourth accused. Even according to the second respondent, they allegedly gave ill advice to the first accused not to marry the second respondent and they also scolded her that the first accused married another lady. Except this allegation, there is no other allegation to attract the offence under Sections 417, 420 & 506(i) of IPC.

5. The learned Government Advocate(crl.side) appearing for the first respondent submitted that there are totally seven accused, in which the petitioners are arrayed as A4 and A5. They are close relatives of the first accused and they also instructed the first accused not to marry the second respondent and they also threatened the second respondent with dire consequences if she insisted for her marriage with the first accused. Therefore, there are specific allegations against the petitioners to attract the offences under Sections 417, 420 & 506(i) of IPC. Hence, he prayed for dismissal of this criminal original petition.

6. Heard the learned counsel appearing on either side and perused all the materials placed before this Court.



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7. On perusal of the records, it is revealed that there are totally seven accused, in which the petitioners are arrayed as A4 and A5. The fourth accused is none other than the sister of the first accused and the fifth accused is the husband of the fourth accused. Even according to the second respondent, she fell in love with the first accused and she married the first accused on 05.06.2013 before a temple. Both of their family members were not present during their marriage. Thereafter, the first accused only assured the second respondent that he would marry her in the presence of the family members. As far as the petitioners are concerned, they are living separately in their residences. Only allegation is that the petitioners gave some ill advice to the first accused not to marry the second respondent and as such they have also been implicated as accused. Further, they also told that the first accused married another lady by name Hema. Therefore, in order to attract the offence under Sections 417 & 420 of IPC, there are absolutely no ingredients and no offence is made out as against the petitioners.

8. It is relevant to rely upon the definition of cheating under Section 415 of IPC which reads as follows:



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"415. Cheating- Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat"."

9. A perusal of the aforesaid provision shows that the offence of cheating is in two parts. The first is where a person fraudulently or dishonestly deceives another in inducing that person to deliver any act which causes damage or harm to that person "in body, mind, or reputation or property is said to have cheated". Time and again, this Court has reiterated that in order to make out an offence under cheating the intention to cheat or deceive should be right from the beginning. By no stretch of imagination, this is even reflected from the complaint made by the informant.

10. In the case of ***Hridaya Ranjan Prasad Verma v. State of Bihar***, reported in ***(2000) 4 SCC 168***, the Hon'ble Supreme Court of India held as under:



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"15. In determining the question it has to be kept in mind that the distinction between mere breach of contract and the offence of cheating is a fine one. It depends upon the intention of the accused at the time of inducement which may be judged by his subsequent conduct but for this subsequent conduct is not the sole test. Mere breach of contract cannot give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction, that is, the time when the offence is said to have been committed. Therefore it is the intention which is the gist of the offence. To hold a person guilty of cheating it is necessary to show that he had fraudulent or dishonest intention at the time of making the promise. From his mere failure to keep up promise subsequently such a culpable intention right at the beginning, that is, when he made the promise cannot be presumed."

11. Further, in the case of **Indian Oil Corpn. v. NEPC (India) Ltd.** reported in **(2006) 6 SCC 736**, the above position was reiterated in the following manner:

"33. The High Court has held that mere breach of contractual terms would not amount to cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction and in the absence of an allegation that the accused had a fraudulent or dishonest



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intention while making a promise, there is no "cheating".

The High Court has relied on several decisions of this Court wherein this Court has held that dishonest intent at the time of making the promise/inducement is necessary, in addition to the subsequent failure to fulfil the promise. Illustrations (f) and (g) to Section 415 make this position clear:

(f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.

(g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery, A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.' "

12. The punishment of cheating is given under Section 417 of IPC

which reads as under:

"417. Punishment for cheating- Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."



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13. There can be multiple reasons for initiating a marriage proposal and then the proposal not reaching the desired end. It may in a given case involve cheating; it is possible theoretically yet in order to prove an offence of cheating in such cases prosecution must have reliable and trustworthy evidence in order to first prosecute such a case. In the case on hand, there is absolutely no evidence before the prosecution and therefore, no offence under Section 417 of IPC is made out.

14. Further, it is well settled that in order to bring the charge for the offence under Section 420 of IPC:

(i) the accused must have fraudulently or dishonestly made some false compromise.

(ii) the defacto complainant must have acted on the strength of such false representation or compromise.

15. In the case on hand, the petitioners neither made any dishonest nor any fraudulent representation to the second respondent. Therefore, the offence under Section 420 of IPC is not at all made out as against the petitioners.



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16. In view of the above discussion, the impugned proceedings

cannot be sustained against the petitioners. Accordingly, the entire impugned proceedings is quashed in respect of the petitioners alone and this criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

- 1.Additional Mahila Court, FTC, Salem
- 2.The Inspector of Police,
All the Women Police Station,
Salem Town, Salem District
- 3.The Public Prosecutor,
High Court of Madras

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