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Crl.O.P.No.8237 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2026

CORAM:

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

Crl.O.P.No.8237 of 2023 and
Crl.MP.Nos.5235 & 5236 of 2023

1.Praveen Kumar @ Praveen Sri Kumar
2.Rooba Kanda

... Petitioners

Vs.

1.The State rep. By
The Sub Inspector of Police,
Central Crime Branch Team I,
Vepery,
Chennai 600 007
crime No.61 of 2022
2.Kavitha Rajesh

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C. praying to call for the records relating to the criminal case in CC.No.10430 of 2022 pending trial on the file of the learned Metropolitan Magistrate for Exclusive Trial of CCB Cases and CBCID Metro Cases, Chennai, quash the same by allowing this criminal original petition.

For Petitioners : Mr.N.Manoharan

For Respondents

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



Crl.O.P.No.8237 of 2023

ORDER

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This criminal original petition has been filed praying to quash the proceedings in CC.No.10430 of 2022 pending trial on the file of the learned Metropolitan Magistrate for Exclusive Trial of CCB Cases and CBCID Metro Cases, Chennai.

2. The case of the prosecution is that the 2nd respondent and the 1st petitioner were working in Indira Project. While so, the 1st petitioner informed the complainant to start 'Vishakha Cow Conservation and Milk Producers Cooperative Society, in which, the 2nd respondent was the Executive Director and the 1st petitioner was the Chief Executive Director. An advertisement was issued inviting the customers to deposit Rs.1 lakh to buy a cow, and that the said amount will be refunded at the rate of Rs.2,400/- per month. Nearly 98 persons had deposited Rs.1.41 crores in the bank account of the 2nd respondent with Yes Bank Account No.0418633000009999. Rs.76,55,074/- were transferred from the above said bank account of the 2nd respondent to the bank account of the 1st petitioner in the Equitis Bank Account No.100004389214 between 26.12.2018 and 23.10.2019. As per the allegations, the said amount was transferred to purchase 61 cows and one Ox at the rate of Rs.80,000/- per



Crl.O.P.No.8237 of 2023

cow. Later, the 2nd respondent came to know that some of the cows were not in a position to give milk, some of the cows were unable to procreate and few others are not fit enough. Immediately, the 2nd respondent demanded the 1st petitioner to repay the amount transferred by her, and that the 1st petitioner had issued two cheques No.000024 and 000025 for Rs.15 lakhs and Rs.44 lakhs respectively on 04.11.2019. Both the cheques were presented. However, they were returned unpaid and that the 2nd respondent went to the house of the petitioners, where she was threatened by the 2nd petitioner. Hence, a compliant was lodged.

3. On the complaint, the first respondent did not take any action and as such, the second respondent was constrained to file a petition for direction under Section 156(3) of Cr.P.C. in Crl.MP.No.11891 of 2021 and as per the direction of the learned Magistrate, the first respondent registered FIR in crime No.61 of 2022 for the offence punishable under Sections 406, 420, 506(i) of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance by the trial court.

4. The learned counsel for the petitioners would submit that there are totally two accused, in which the petitioners are arrayed as A1



Crl.O.P.No.8237 of 2023

and A2. The entire allegations are false and misleading. The second respondent had started a concern in the name and style of Vishakha Cow Conservation and Milk Producers Cooperative Society (hereinafter called as 'the Society'). It is a proprietorship concern and it was registered with Tamilnadu Food Safety and Drug Administration Department. Neither the first petitioner nor the second petitioner had played any role in day to day affairs of the administration of the society. The witnesses deposed that they invested money only with the second respondent. Thereafter, the said sum was transferred to the account of the first petitioner for the purpose of purchasing cows and oxen. However, after some time, the first petitioner had expressed his inability to extend his service to the second respondent. He further submits that the second respondent had executed her plan and appears to have collected huge sum from more than 100 persons and failed to honour her promise. Therefore, at first, the general public lodged complaint as against the second respondent. Hence, he prayed to quash the impugned proceeding.

5. The learned Government Advocate(crl.side) appearing for the first respondent submits that there are totally 100 victims. The petitioners have cheated the victims by collecting a sum of Rs.1,41,00,000/- from the victims. Therefore, all the grounds raised by

Page 4 of 10



Crl.O.P.No.8237 of 2023

the petitioners cannot be considered to quash the entire proceedings and the petitioners have to prove their case by letting in evidence before the trial court. Hence, he prayed to dismiss this criminal original petition.

6. On perusal of the entire records, it is revealed that the offence committed by the accused was against the society. There are more than 100 victims and they also lost their hard earned money. On the direction of the learned Magistrate, the first respondent registered FIR. Now the first respondent has filed final report and the same has been taken cognizance by the trial court.

7. Insofar as the first petitioner is concerned, there are specific allegations against him. The Hon'ble Supreme Court of India in the judgment reported in **2019 (4) SCC 351** in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr., (Crl.A.No.579 of 2019 dated 02.04.2019)** while dealing with the petition to quash the entire criminal proceedings held that the High Courts have no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and therefore, there was no prima facie case made out as against the accused. It could be done only by the trial Court while deciding the issues on the merits or/and by the Appellate

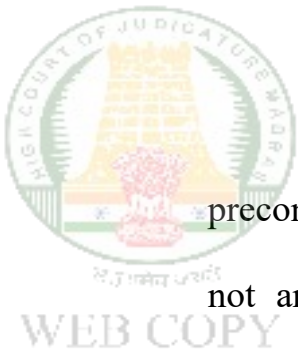


Crl.O.P.No.8237 of 2023

Court while deciding the appeal arising out of the final order that the charge sheet has been laid on the basis of the inconsistency statement under Section 161 of Cr.P.C.

8. Fruther, the Hon'ble Supreme Court of India in the judgment reported in **2019 (10) SCC 686** in the case of ***Central Bureau of Investigation Vs. Arvind Khanna, (Crl.A.No.1572 of 2019 dated 17.10.2019)*** held that the High Courts cannot record the findings on the disputed facts. The defence of the accused is to be tested after appreciation of evidence by the trial Court during the trial. Therefore, this Court has no power to consider the disputed facts under Section 482 of Cr.P.C.

9. The Hon'ble Supreme Court of India in another judgment dated **02.12.2019** passed in ***Crl.A.No.1817 of 2019*** in the case of ***M.Jayanthi Vs. K.R.Meenakshi & anr***, held that while considering the petition for quashment of complaint or charge sheet, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that consititue certain offences complained of. Further, the Court can also see whether the



Crl.O.P.No.8237 of 2023

preconditions requisite for taking cognizance have been complied with or not and whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged. Whether the accused will be able to prove the allegations in a manner known to law would arise only at a later stage i.e., during trial.

10. Further this Court cannot observe at this stage that the initiation of criminal proceeding itself is malicious. Whether the criminal proceeding is malicious or not, is not required to be considered at this stage. The same is required to be considered at the conclusion of the trial. Therefore, the grounds raised in respect of the first petitioner to quash the impugned proceedings cannot be entertained. As such, this criminal original petition in respect of the first petitioner is liable to be dismissed.

11. Insofar as the second petitioner, she is none other than the mother of A1. Except the relationship, there is no specific allegation against her. The only allegation made against her is that when demand was made to return back the money, she threatened with dire consequences, for which there is absolutely no material to attract the charge under Section 506(i) of IPC. Therefore, no offence is made out against the second accused / the second petitioner. As such, the impugned



Crl.O.P.No.8237 of 2023

proceedings is liable to be quashed against the second petitioner/A2

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12. In view of the above discussion, this criminal original petition is dismissed in respect of the first petitioner. However, the entire impugned proceedings is quashed in respect of the second petitioner/A2 and this criminal original petition is allowed in respect of the second petitioner. Consequently, connected miscellaneous petitions are closed.

13.03.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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Crl.O.P.No.8237 of 2023

To
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1.The learned Metropolitan Magistrate for Exclusive Trial of CCB Cases
and CBCID Metro Cases, Chennai

2.The State rep. By

The Sub Inspector of Police,
Central Crime Branch Team I,
Vepery,
Chennai 600 007

3.The Public Prosecutor,
High Court of Madras



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Crl.O.P.No.8237 of 2023

G.K.ILANTHIRAIYAN, J.

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Crl.O.P.No.8237 of 2023

13.03.2026