

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2015

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Cr1.O.P.No.15866 of 2015

&

M.P.No.1 of 2015

Navenkumar Kochar

...Petitioner/4th Accused

Vs.

1. The State
Rep by the Inspector of Police
J-9, Thuraipakkam Police Station,
Kancheepuram District.
2. H.Sathak Ahmed Shaw ... Respondent
(R2 impleaded as per order
dated 24/07/2015 in mp 2/2015)

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C to call for the records culminated in C.C.No.530 of 2007 pending on file of the Judicial Magistrate, Alandur and quash the same, in so far as the petitioner is concerned.

For Petitioner : Mr.P.V.Balsubramaniam

For Respondents No.1 : Mr.C. Emalias
Addl. Public Prosecutor

For Respondents No.2 : Mr.S.Doraisamy

O R D E R

The criminal original petition has been filed to call for the records culminated in C.C.No.530 of 2007 pending on file of the Judicial Magistrate, Alandur and quash the same.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent and the learned counsel appearing for the second respondent.

3. On a complaint lodged by one M.S.Hameed, the case in Crime No.815 of 2006 was registered by the Sub-Inspector of Police, Thuraipakkam Police Station, Kancheepuram District and after completing the investigation, a final report has been filed in C.C.No.530 of 2007 before the learned Judicial Magistrate, Alandur. Challenging which, the fourth accused is before this Court for quashing the prosecution as against him.

4. It is the case of the prosecution that M.S.Hameed - defacto complainant and Dhanraj Kochar (A1) were Directors in M/s.D.R. Foundations and Estates Pvt. Ltd., which was established for carrying on real estate business in and around Siruseri and Semmancheri. According to the defacto-complainant, he invested around Rs.1,71,00,000/- in the company and that, Dhanraj Kochar (A1) siphoned the amount steadily in an ingenuous manner in the name of children and grand children. It is the case of the petitioner herein that neither the final report nor the documents collected by the police disclose the involvement of this petitioner in the offence.

5. Be that as it may, it is brought to the notice of this Court that earlier all the accused in this case including the petitioner herein filed criminal original petition in CrI.OP.No.24609 of 2007 before this Court and this Court granted stay of the trial. When the matter came up on 17.11.2014 before the learned Single Judge, it is seen that the learned single judge heard the parties and ultimately the accused /petitioners represented that they will withdraw the petition. The learned Judge in the order dated 17.11.2014 in CrI.OP.No.24609 of 2007 is recorded as follows:

"When this original petition came up for hearing, the learned counsel for the petitioners submitted that he does not press this original petition. He has also made an endorsement to that effect. Permission is accordingly granted.

2.

3.

4. In view of the above, the criminal original petition is dismissed as not pressed, however, with a liberty to the petitioners to raise all the grounds available to them by facing trial and to approach this court at a later point of time, if so advised, after the final disposal of the civil appeal in A.S.No.1002 of 2009 on the file of this Court."

6. The Learned Additional Public Prosecutor submitted that the petitioner herein who was the fourth petitioner in CrI.OP.No.24609/2007 had raised all the points earlier and when this Court was about to dismiss the petition, the petitioner withdrew the same with liberty to raise all the grounds available by facing trial and to approach this Court at a later point of time, if so advised,

after the final disposal of the civil appeal in A.S.No.1002 of 2009 on the file of this Court.

7.It is admitted by all the parties that A.S.No.1002 of 2009 is still pending and it is not yet been disposed.

8. In view of the categorical order passed by this Court in CrI.O.P.No.24609 of 2007 that the petitioners will be entitled to approach this Court only after disposal of A.S.No.1002 of 2009, the present petition filed by the petitioner canvassing the same points that was canvassed in CrI.O.P.No.24609 of 2007, is not maintainable.

9. In the result, the criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Inspector of Police
J-9, Thuraipakkam Police Station,
Kancheepuram District.
2. The Judicial Magistrate, Alandur.
3. The Public Prosecutor,
High Court, Madras.

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