

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 03.07.2015

Delivered on : 08.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.No.16356 of 2015
and M.P.Nos.1,2 of 2015

1.R.Shakthivel
2.S.Rani

....Petitioners/Accused 1 & 2
Versus

State rep. By
Inspector of Police,
District Crime Branch,
Namakkal, Namakkal District. ... Respondent/Complainant.

Criminal Original petition filed under Section 482 of the Criminal Procedure Code praying to call for records in C.C.No.265 of 2014 on the file of learned Judicial Magistrate No.1, Namakkal and Namakkal District and quash the same.

For Petitioners : Mr.C.D.Johnson
For Respondent : Mr.C.Emalias, Addl. Public Prosecutor

O R D E R

This petition has been filed to quash the proceedings in C.C.No.265 of 2014 on the file of the learned Judicial Magistrate No.1, Namakkal.

2. Heard the learned counsel for the petitioners; the learned Additional Public Prosecutor appearing for the respondent and perused the materials placed on record.

3. On a complaint lodged by one Varadarajan, the respondent police registered a case in Crime No.53 of 2011 on 28.12.2011 against the petitioners herein for offences under Section 120B, 420, 468, 482, 447 IPC and after completing the investigation, filed a Final Report in C.C.No.265 of 2014 before the learned Judicial Magistrate I, Namakkal District, which is hereby challenged by the petitioners/accused in this quash proceedings.

4. The prosecution's case is that the defacto complainant had taken shop No.14 in a commercial complex belonging to one Raju on

rent for running a Bata [slippers and shoes] showroom on 10.10.1999 and obtained TNGST registration in the name of Tirumal Traders. The proprietor of Tirumal Traders is Suresh, S/o.Varadarajan [defacto complainant]. Suresh was not able to run the showroom and the accused came forward to join Suresh as partner. The accused had agreed to pay profits to Suresh. In order to usurp the business, the petitioners/accused had forged the signature of Suresh and had applied to the Sales Tax authorities for cancelling the TNGST registration in favour of 'Tirumala Traders' and they have obtained a new TNGST registration in the name of 'Sri Tirumala Traders'.

5. Mr.C.D.Johnson, learned counsel for the petitioners/accused submitted that the transaction between the accused and Suresh is covered by a Partnership Deed dated 01.11.2005 and a civil dispute has been given a criminal colour. He has also produced a copy of the letter dated 31.01.2014 said to have been given by the Assistant Commissioner of Sales Tax addressed to Raju the landlord, wherein, it is stated that Raju had given tenancy of shop No.14 to the petitioners/accused which only shows that the petitioners/accused had not made any misrepresentation to the Sales Tax authorities.

6. At the first blush, the arguments of Mr.C.D.Johnson was very convincing. But, on a closer scrutiny of facts, it is seen that the police have obtained specimen signatures of Suresh and the application containing the signature of Suresh that was submitted to the Sales Tax authorities for cancellation of TNGST number and have sent it to the handwriting expert for his opinion. The handwriting expert has opined that the signature in the form submitted to the TNGST authorities is not that of Suresh. That is the reason why the accused are charged for an offence under Section 468 IPC.

7. In view of the above, it cannot be stated that there are no materials against the accused warranting inference under Section 482 Cr.P.C. In the result, the petition is devoid of merits and accordingly, dismissed. Consequently, connected miscellaneous petitions are closed.

gya

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1.The Inspector of Police,
District Crime Branch,
Namakkal District.

2.The Public Prosecutor,
High Court, Madras.

3.The Judicial Magistrate No.1,
Namakkal, Namakkal District.

+ 1 cc to Mr.C.D.Johnson, Advocate SR 34304

ak(co)
prk22/7

CRL.O.P.No.16356 of 2015



WEB COPY