

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 13.07.2015

Delivered on : 24.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.No.1320 of 2014
and M.P.Nos.1,2 of 2014

D.Arulnithi ... Petitioner/Accused.

Versus

State by
The Inspector of Police,
CBCID, Cuddalore,
Cuddalore District. ... Respondent/Complainant.

Criminal Original petition filed under Section 482 of the Criminal Procedure Code praying to call for the entire records concerned in CC.No.100 of 2013 on the file of the District Munsif-cum-Judicial Magistrate, Tittagudi, Cuddalore District and quash the same.

For Petitioner : Mr.C.Prakasam
For Respondent : Mr.C.Emalias, Addl. Public Prosecutor

O R D E R

This petition has been filed to quash the proceedings in CC.No.100 of 2013 on the file of the District Munsif-cum-Judicial Magistrate, Tittagudi.

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

3. The respondent Police have filed a counter, wherein, the facts of the case have been elaborately narrated and it may be profitable to extract the relevant paragraph Nos.5 to 10:

"5.It is submitted that, the facts of the case is as follows:

The petitioner/accused Arulnithi a practicing advocate in Thittakudi Court has written a letter dated 26.04.2011 addressed to the Under Secretary and Public Information Officer, Tamil Nadu Legislative Assembly sought for copies of certain documents which were placed on the table of the house during the year 2010-2011 under Right to Information Act 2005.

6.The petitioner/accused Arulnithi was informed by the Under Secretary on 30.06.2011 that the particulars required by him were about 6415 pages and he was requested to send a sum of Rs.12,830/- by way of demand draft drawn in favour of Public Information Officer, Legislative Assembly, Secretariat, towards the fees for furnishing copies of the document requested by him under the Right to Information Act 2005.

7.On 14.07.2011 the petitioner/accused Arulnithi has sent the remitters copy of challan dated 14.07.2011 for Rs.12,830/- original to the Under Secretary, Tamil Nadu Legislative Assembly as evidence for having remitted the said amount into the Indian Bank Tittagudi Branch. On verification from Indian Bank, Tittagudi branch and District Treasury Office, Cuddalore the Under Secretary found that the petitioner/ accused Arulnithi has not remitted the said amount of Rs.12,380/- into the Government account.

8.On knowing the entire facts from the bank the petitioner on 17.10.2011 sent a requisition to the Under Secretary stating that some error has taken place while taking challan and informed that he would send a demand draft as requested by Under Secretary and also requested to send bank the challan for Rs.12,830/-.

9.After consultation with the higher-ups Under Secretary Tr.Veerarajendran preferred a complaint before Inspector of Police, CBCID, Cuddalore on 09.05.2012. Based on the complaint a case was registered in Cuddalore CBCID Crime No.1/2012 under Section 465, 468, 471 r/w 511 IPC and investigated. During the course of investigation 19 witnesses have been examined 19 documents collected. Also it was found that the petitioner/accused Arulnithi has not remitted the said amount of Rs.12,380/- into the government account instead he paid Rs.30/- and the original challan was altered by adding 128 pre fixed to Rs.30/- and made it as Rs.12,830/-.

10.After thorough investigation in this case final report was filed on 13.11.2013, under Section 465, 468, 471, 420 r/w 511 IPC before District Munsif-cum-Judicial

Magistrate, Tittagudi. The same was taken on file on 21.11.2013 and assigned CC.No.100/2013. Accused summon was served to the petitioner on 08.01.2014."

4. Learned counsel for the petitioner submitted that the entire fabrication was done by the petitioner's clerk by name Velu for which, the petitioner cannot be prosecuted.

5. The Police in their counter have stated that during the course of the investigation, one Velu @ Velmurugan of Tittadudi was enquired and he has stated that he is a clerk of Advocate Manikandan of Tittagudi Bar Association and that he had never worked for the petitioner herein.

6. On a reading of the Final Report and the statements of witnesses, there is a prima facie case to show that the petitioner had sent a challan evidencing payment of Rs.12,830/- which was found to be a fabricated document, inasmuch as he had not deposited any money into the Indian Bank, Tittagudi branch. When the petitioner knew that the fraud had come to light, he seems to have sent a letter dated 17.10.2011 to the Under Secretary, Tamil Nadu Legislative Assembly informing him that he would send a demand draft.

7. The contention of the learned counsel for the petitioner that the challan was prepared by the clerk cannot be decided in a quash petition under Section 482 Cr.P.C especially, in the light of the report obtained by the Police from the Tamil Nadu Forensic Laboratory implicating the petitioner. The Hon'ble Supreme Court in State of Haryana Vs Bhajan Lal 1992 Supp [1] SCC 335, has laid down the parameters for quashing a prosecution and the facts of this case does not fall within the categories enumerated therein.

8. In the result, this petition is devoid of merits and dismissed. Consequently, connected Miscellaneous Petitions are closed.

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s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

To

1. The District Munsif cum Judicial Magistrate,
Tittagudi, Cuddalore District.
2. The Inspector of Police,
CBCID, Cuddalore,
Cuddalore District.

3. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.C.Prakasam, Advocate SR 38139

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