

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.03.2015

CORAM

The Hon'ble Mr. Justice R.S.RAMANATHAN

Cr1.O.P.No.25595 of 2014

M.P.No.1 of 2014

and M.P.No.2 of 2015

Sudheer Kuttan

... Petitioner

Vs.

1. M.Irene Manohar

2. State by

The Inspector of Police,
R-5, Choolaimedu Police Station,
Crime, Chennai
Crime No.1522 of 2013

... Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to call for the records pertaining to the F.I.R. registered in Crime No.1522 of 2013, dated 16.12.2013, pending investigation on the file of the second respondent/Police and to quash the same against the petitioner.

For Petitioner : Mr.M.Jaikumar
For R1 : Mrs.Nalini Chidambaram,
Senior Counsel for Mrs.C.Uma
For R2 : Mr.M.Maharaja,
Addl. Public Prosecutor

O R D E R

The petitioner is arrayed as second accused in the case in Crime No. 1522 of 2013 registered on the file of the second respondent/Police. The said case came to be registered on the basis of the complaint given by the first respondent herein. Contending that the registration of the case in Crime No. 1522 of 2013 as against the petitioner is an abuse of process of law, the present Criminal Original Petition is filed.

2. Heard Mr.M.Jaikumar, the learned counsel appearing for the petitioner, Mrs.Nalini Chidambaram, the Senior Counsel for the first respondent and Mr.M.Maharaja, the learned Additional Public Prosecutor for the second respondent and I have also perused the complaint filed by the first respondent.

3. A perusal of Para No.1 of the complaint would disclose that the first respondent was acquainted with A-1 Venkata Ramanujam, who introduced A-2/petitioner to her. In the second paragraph, it was stated that both A-1 and A-2 have reposed faith, confidence and sympathy on her and taken money from her. In that connection, it was complained that both A-1 and A-2 owe to the first respondent, a sum of Rs.22,48,250/-. It is further stated that for such loan taken by them, the property of A-3 was mortgaged as collateral security by the first accused, but later, the property document was stolen and mortgaged with HDFC Bank to raise a loan of Rs.49,00,000/-. On the one hand, the first respondent complained that A-1 and A-2 have reposed confidence on her to take money. On the other hand, first respondent admitted that the property stood in the name of the A-3, was utilized for creating collateral security to clear the loan amount payable to her. Of course, it was complained that the said document was stolen and pledged with HDFC bank for raising a loan. However, in the last paragraph of the complaint, the first respondent prayed for initiating action against all the accused, as they were hand in glove with each other.

4. Thus, a reading of the present complaint does not make out any allegation, much less specific allegation as against A-2 and the allegations are only against A-1. However, at this stage, I do not want to go in to the merits of the complaint given by the first respondent. But, suffice it to state that there is no specific overtact or allegations made in the complaint as against A-2. At this stage, the learned counsel for the petitioner would contend that even the averments made against A-1 and A-3 are vague and baseless, such a contention urged by the petitioner cannot be gone into in the present proceedings filed by the petitioner/A-2.

5. In any event, having regard to the nature of the complaint and the allegations made against the petitioner/A-2, especially, in the last sentence, wherein, the first respondent has only stated that the accused are hand in glove with each other, I am inclined to quash the FIR registered against the petitioner/A2. I am also reminiscent of the fact that in similar facts and circumstances of the case, the FIR against the third accused was quashed by me, by order, dated 04.02.2015, in CrI.O.P.No.6396 of 2014.

6. Hence, the present Criminal Original Petition is allowed, and the FIR in Cr.No.1522 of 2013, stands quashed in respect of the petitioner/second accused. However, it is made clear that, if the Investigating Officer has collected any materials to implicate the petitioner/A2 during the course of investigation, this Order will not preclude the Investigating Officer from arraying him as an accused at the time of filing the charge sheet, as contemplated under law. The

Investigating Officer is directed to file the charge sheet in the present case on or before 30.06.2015. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

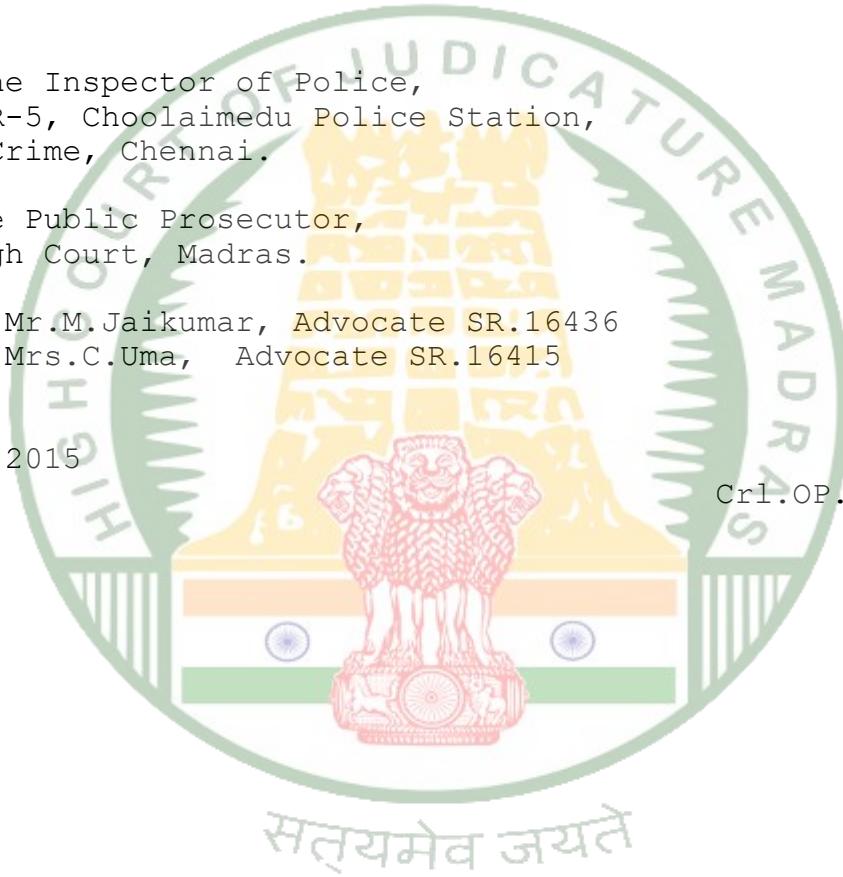
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To

1. The Inspector of Police,
R-5, Choolaimedu Police Station,
Crime, Chennai.
 2. The Public Prosecutor,
High Court, Madras.
- + 1 cc to Mr.M.Jaikumar, Advocate SR.16436
+ 1 cc to Mrs.C.Uma, Advocate SR.16415

EV(CO)
EU 15.05.2015

Crl.OP.No.25595 of 2014



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