

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.07.2015

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.25796 of 2014 and MP.Nos.1,2 of 2014,
CRL.OP.Nos.31771 and 31275 of 2014

CRL.OP.No.25796 of 2014

1.P.N.Srinivasan

2.P.N.Subbaiyan

... Petitioners/ Accused 4,5

Vs

1.State rep by its
Inspector of Police,
District Crime Branch,
Kancheepuram.

2.Padmini Apparao

W/o. (Late) Apparao

(Amended as per order of this court made in M.P.1/15 in
Crl.O.P.25796/14 dated 30.4.2015... Respondents/ Complainant

CRL.OP.No.31275 of 2014

Champalakshmi Venkatachalam

... Petitioner/ Accused

Vs

1.The State rep by
Deputy Superintendent of Police,
District Crime Branch,
Kancheepuram.

2.Padmini Apparao

... Respondents/ Complainants

W/o. (Late) Apparao

(Amended as per the order of this court made in M.P.1/15 in
Crl.O.P.31275/14 dated 30.4.2015

CRL.OP.No.31771 of 2014

1.C.M.Rathinasabapathy

2.C.M.Ramesh

... Petitioners/ Accused 2 & 3

Vs

1.The State rep by
Deputy Superintendent of Police,
District Crime Branch,
Kancheepuram.

2.Padmini Apparao

... Respondents/ Complainants

W/o. (Late) Apparao

(Amended as per the order of this court made in M.P.1/15 in
Crl.O.P.31771/14 dated 30.4.2015

Common Prayer : Criminal Original Petitions are filed under Section 482 of Cr.P.C., praying to call for the records in CC.No.229 of 2014 on the file of the Judicial Magistrate II, Kancheepuram and to quash the same.

For Petitioners : Mr.M.Ravindran, Senior Counsel
in Crl.OP.25796/2014 for Mr.H.Elango

For Respondents : Mr.C.Emalias, APP [for R1]
in Crl.OP.25796/2014 Mr.A.Ramesh, Senior Counsel
for Mr.M.Guruprasad [for R2]

For Petitioner : Mr.A.Raghunathan, Senior Counsel
in Crl.OP.31275/2014 for Mr.G.Sankaran

For Respondents : Mr.C.Emalias, APP [for R1]
in Crl.OP.31275/2014 Mr.A.Ramesh, Senior Counsel
for Mr.M.Guruprasad [for R2]

For Petitioners : Mr.P.H.Manojpandian
in Crl.OP.31771/2014 for M/s.AAV Partners

For Respondents : Mr.C.Emalias, APP [for R1]
in Crl.OP.31771/2014 Mr.A.Ramesh, Senior Counsel
for Mr.M.Guruprasad [for R2]

C O M M O N O R D E R

These petitions have been filed to quash the proceedings in CC.No.229 of 2014 on the file of the learned Judicial Magistrate-II, Kancheepuram.

2. Heard the learned counsel for the petitioner; learned Additional Public Prosecutor appearing for the 1st respondent; learned counsel appearing for the 2nd respondent and perused the materials placed on record.

3. The crux of the allegation in the Final Report is that the accused herein had submitted forged documents to the Registrar of Companies, with an intention to usurp the management and assets of M/s.Kannan Sugars Pvt. Ltd. In this regard, there are several litigations pending before the Civil Court as well before the Company Law Board.

4. Be that as it may, on the complaint lodged by one Apparao, the respondent police registered a case in Crime No.127 of 2011 under Section 466, 467, 468, 471, 474, 420, IPC read with 120 [B] and 34 IPC and after completing the investigation, filed a Final Report before the learned Judicial Magistrate II, Kancheepuram which has been taken on file as CC.No.229 of 2014.

5. The defacto complainant was aggrieved with the Final Report as he felt that the police had not properly investigated the

case, inasmuch as they had not even examined one P.S.Venkatachalam. Therefore, the defacto complainant has filed CrI.MP.No.2842 of 2014 in CC.No.229 of 2014 for further investigation, which is pending. While so, the accused have filed these quash applications challenging the very prosecution itself.

6. The main contention of the accused in the quash application is that the entire Final Report is based on an expert report obtained from a private agency by name Truth Lab. During the pendency of these quash applications, the respondent police appear to have collected the impugned documents and had sent the same to the Tamil Nadu Forensic Laboratory for examination of the signatures and handwritings thereon. It is seen that a report dated 09.02.2015 has been received from the Tamil Nadu Forensic Laboratory which undoubtedly changes the contours of the prosecution case and takes away the wind out of sail of the accused.

7. Learned Senior Counsels appearing for the accused unanimously submitted that it will serve the interest of justice, if P.S.Venkatachalam is examined by the police.

8. Thus, on this aspect, there seems to be an agreement between the defacto complainant and the accused. This Court is also of the view that examination of P.S.Venkatachalam will be essential.

9. Learned counsel appearing for the defacto complainant would submit that apart from P.S.Venkatachalam, it may also be necessary for the police to enquire one Vijayalakshmi Kannabiran and Vijaya Elangovan.

10. For the just decision of the case, any number of persons who are acquainted with the crime can be examined by the police, in the exercise of their powers of investigation and no Court can put fetter on this power. Therefore, this Court directs Mr.H.Ramesh Babu, Deputy Superintendent of Police, Kancheepuram to record the statements of P.S.Venkatachalam, Vijayalakshmi Kannabiran and Vijaya Elangovan and any other person, whom he thinks would throw light on the facts of the case, especially with reference to the documents obtained from the Company Law Board.

11. The Deputy Superintendent of Police is directed to complete this process within two months, from the date of receipt of a copy of this order and file a further report before the learned Judicial Magistrate II, Kancheepuram in CC.No.229 of 2014 and thereafter, the learned Magistrate is directed to proceed in accordance with law. If required, 164 Cr.P.C statements of the witnesses may also be recorded so that no allegations are made against the police.

12. In the light of the aforesaid directions, CrI.MP.No.2842 of 2014 in CC.No.229 of 2014 on the file of the Trial Court is directed to be closed. This Court directs all the

accused to appear before the Trial Court and furnish bond under Section 88 Cr.P.C with two sureties each for Rs.10,000/-. If the accused fail to appear, the Trial Court may initiate coercive steps.

13. With the above directions, these petitions are dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

1.The Deputy Superintendent of Police,
District Crime Branch,
Kancheepuram.

2. The Inspector of Police,
District Crime Branch,
Kancheepuram.

3.The Public Prosecutor,
High Court, Madras.

4. The Judicial Magistrate No.II
Kancheepuram

5. Do thro the Chief Judicial Magistrate
Kancheepuram

6. The Section Officer
Criminal Section
High Court, Madras

3 ccs to Mr.M.Guruprasad, Advocate, sr. 34401 to 34403

2 ccs to Mr.H.Elango,m Advocate, Sr. 34413

2 cc to Mr.G.Sankaran, Advocate, Sr. 34412, 34912

CRL.OP.No.25796 of 2014 and
MP.Nos.1,2 of 2014,
CRL.OP.Nos.31771 and 31275 of 2014

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