

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 24.08.2016

PRONOUNCED ON: 29.08.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. No.18621 of 2016 & Crl.M.P. Nos.8754 & 8755 of 2016

K. Sudhakar ...Petitioner/Accused No.2

vs.

The Inspector of Police
Central Crime Branch
Team IX (Job Racket)
Vepery, Chennai - 600 007
(Crime No.301/2012)

...Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to the proceedings of the charge sheet in C.C. No.10634 of 2014 on the file of the Chief Judicial Metropolitan Magistrate, Egmore, Chennai and quash the same.

For petitioner Mr. N. Thyagarajan, Sr. Counsel
for Mr. R. Senthil Kumar

For respondent Mr. C. Emalias,
Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed to call for the records relating to the proceedings of the charge sheet in C.C. No.10634 of 2014 on the file of the Chief Judicial Metropolitan Magistrate Court, Egmore, Chennai and quash the same.

2 The petitioner lodged a complaint on 23.05.2012 alleging that one Varadarajan and his wife Alli have collected huge amounts of money from him and others, promising them that they would get job for them in various Government establishments with their clout in the Government. On this complaint, the respondent police registered a case in Crime No.301/2012 on 23.05.2012 under Section 406 and 420 IPC against Varadarajan and Alli and after completing the investigation, has filed a final report in C.C. No.10634 of 2014 before the Chief Metropolitan

Magistrate Court, Chennai, for offences under Section 406 and 420 IPC read with Section 34 IPC against Varadarajan (A1), Sudhakar (A2/petitioner/de facto complainant) and Alli (A3), challenging which, Sudhakar is before this Court.

3 Mr. N. Thiagarajan, learned Senior Counsel appearing for the petitioner submitted that the petitioner was the whistleblower who first set the law into motion by lodging the complaint, based on which, the FIR in this case has been registered, whereas, he has been made an accused by the police, ignoring the fact that he himself was a victim of Varadarajan (A1) and Alli (A3). The learned Senior Counsel also submitted that the petitioner is an ex-serviceman and even in the confession statement of Varadarajan (A1), it is clearly stated that various monies were received by him (Varadarajan) and not by the petitioner. He further submitted that Varadarajan (A1) had admittedly issued cheques to various victims, which only shows that the petitioner was in no way responsible for the alleged incident.

4 Per contra, Mr. C. Emalias, learned Additional Public Prosecutor submitted that there are sufficient materials to show that it was the petitioner, who had taken all the victims and introduced them to Varadarajan (A1) and that some of the victims had even paid money to the petitioner for getting employment.

5 This Court gave its anxious consideration to the rival submissions.

6 In the final report, it is alleged that the petitioner had worked in tandem with Varadarajan (A1) and Alli (A3) in collecting monies from various persons on the promise of getting them employment and had cheated them. On a reading of 161(3) Cr.P.C. statement of one Santhosham, it is seen that the said Santhosham is none other than the petitioner's brother-in-law. Santhosham, in his statement, has stated that he wanted job for his son Arun and that the petitioner had told him that if he comes alone, it will not be possible to get employment for his son and that he should bring more persons so that it will be easier to get employment for all. On the strength of this representation, Santhosham took Annamalai, Thiruppathi, Kumar, Annadurai, Geetha Ravi, Sumathi Ravi, Thirumalai, Parthiban, Karthikeyan, Kumaravel, Sivakumar, Ramani, Gunaseelan, Sujatha, Anitha, Saranya, Usharani, Dhanalakshmi and some others and totally paid Rs.61 lakhs to the petitioner directly. Thereafter, neither the petitioner nor the other accused got the promised job to the aspirants. Similarly, in the 161 Cr.P.C. statement

of Karthikeyan, he has clearly stated that he had gone to the house of this petitioner at Kumbakonam and had paid Rs.2,10,000/- for getting employment in Government and that the petitioner, after taking money, neither got him the job nor returned the money.

7 Thus, in the teeth of the overwhelming materials against the petitioner, by no stretch of imagination, can it be said that there are no materials against him for the trial to proceed. It is trite that the police confession of a co-accused can, in no way, be of assistance to the petitioner in the light of Section 25 of the Evidence Act.

8 Thus, in the considered opinion of this Court, the facts of this case do not pass muster the law laid down by the Supreme Court in State of Haryana vs. Bhajan Lal, [1992 Supp. (1) SCC 335] for quashment of the prosecution.

In the result, this Criminal Original Petition fails and is accordingly dismissed. Connected CrI.M.Ps. are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

cad

To

- 1 The Inspector of Police,
Central Crime Branch,
Team IX (Job Racket),
Vepery, Chennai - 600 007.
- 2 The Chief Judicial Metropolitan magistrate,
Egmore, Chennai-8.
- 3 The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

CrI.O.P. No.18621 of 2016

GJ II[co]
srg 15/09/2016