

THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19..10..2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Criminal Original Petition No.963 of 2011

G.Padmanabhan

... Petitioner

-Versus-

1.The State

Rep. by the Sub Inspector of Police,
V-5, Thirumangalam Police Station,
Chennai.

2.Mrs.R.Jayalakshmi.

... Respondents

Petition filed under Section 482 of Cr.P.C. praying to call for the entire records relating to the case in Crime No.67 of 2009 pending on the file of the 1st respondent against the petitioner and another and to quash the said case.

For Petitioner : Mr.S.Haja Mohideen Gisthi

For Respondent(s) : Mr.C.Emalias, APP for R1

ORDER

This original petition has been filed seeking to quash the case in Crime No.67 of 2009 pending on the file of the 1st respondent against the petitioner.

2. On the complaint lodged by one Jayalakshmi, the respondent police have registered a case in Crime No.67 of 2009 under Sections 467, 468, 469, 471 r/w 109 and 506(ii) of IPC against the petitioner G.Padmanabhan and his brother Ramanujam.

3. On a reading of the complaint which formed the basis of FIR it is alleged by Jayalakshmi that she got married to Padmanabhan in the year 1977 and subsequently, their matrimonial life ran into rough weather and that they got divorced in the year 2000. After divorce, Jayalakshmi is living in her parental

home. It is further alleged by Jayalakshmi that on one fine day, she received a notice from Thirumangalam Janopakara Permanent Fund Limited [in short "Permanent Fund Limited"] that there are some deposits in her name to the tune of rupees three lakhs and after getting such notice when she approached the said Permanent Fund Limited, she learnt that Ramanujam [the elder brother of her erstwhile husband] who was one of the Directors of the Permanent Fund Limited, had misappropriated the said deposits. Therefore, she suspected some foul play by Padmanabhan and his brother Ramanujam to cheat her.

4. The learned Additional Public Prosecutor submitted that investigation in the said case has been completed and final report is ready to file only for offence under Section 506(i) of IPC as the other allegations were found to be false.

5. The learned counsel for the petitioner submitted that Ramanujam died on 28.11.2010 and it appears that the final report has not yet been filed by the police.

6. It is the case of the petitioner that when Jayalakshmi was in the matrimonial home, he had deposited some amounts in her name with the Permanent Nidhi Limited and even those amounts were misappropriated by his brother Ramanujam for which an Advocate notice has been caused by Padmanabhan as early as on 28.12.2006 to the Permanent Nidhi Limited narrating the aforesaid facts. Even according to Jayalakshmi, she had not made any deposit with the said Permanent Nidhi Limited. Therefore, she cannot now complain of any wrongful loss to herself or wrongful gain by anyone.

7. Though final report is said to be made ready, admittedly, the same has not yet been filed before the learned jurisdictional Magistrate. It is trite that merely on suspicion a criminal prosecution cannot be launched against a person. In the complaint given by Jayalakshmi after stating the aforesaid facts, she has alleged that her erstwhile husband and his brother-in-law Ramanujam are trying to do some illegal acts which she wanted the police to investigate. This is merely her suspicion and no police investigation can be ordered on surmises. Even according to the Additional Public Prosecutor, the investigation disclosed that the petitioner had not committed any of the offences as alleged in the complaint and only an offence under Section 506(i) of IPC has been disclosed.

8. Taking into consideration the nature of the allegations in the FIR, this court is of the view that this is a fit case to quash the criminal prosecution.

9. In the result, this criminal original petition is allowed and the case in Crime No.67 of 2009 pending on the file of the 1st respondent is quashed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmk

To

1.The Sub Inspector of Police, V-5, Thirumangalam Police Station, Chennai.

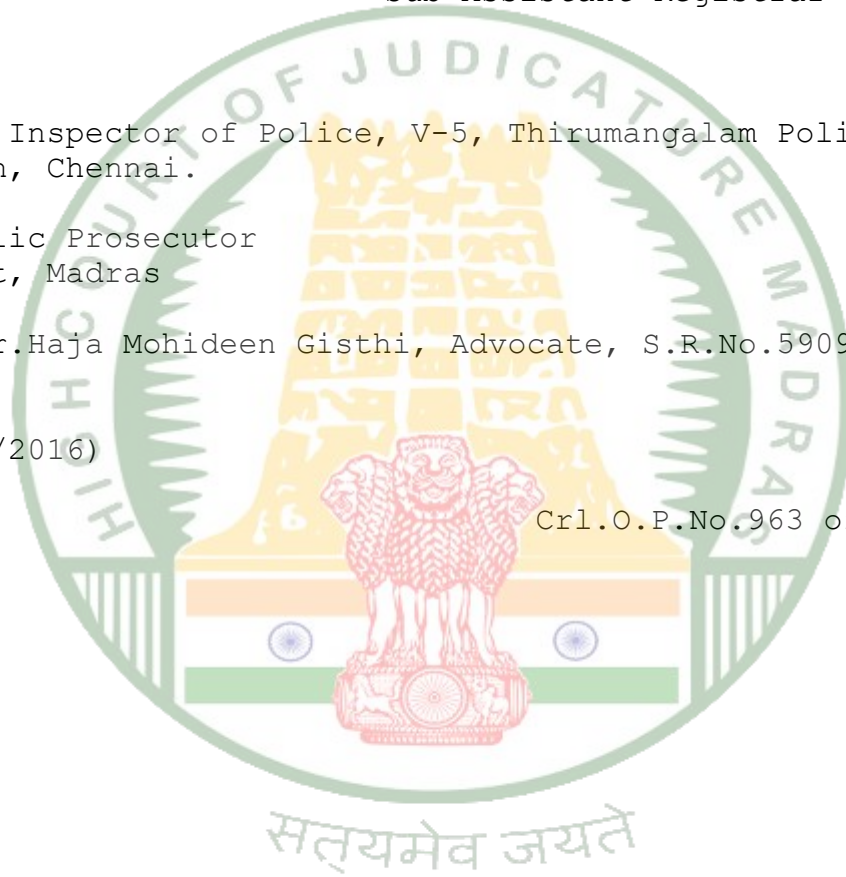
2 The Public Prosecutor
High Court, Madras

+lcc to Mr.Haja Mohideen Gisthi, Advocate, S.R.No.59099

MG (CO)

md (14/11/2016)

Crl.O.P.No.963 of 2011



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