

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.24211 of 2016 and

CRL.MP.No.11535 of 2016

R.Krishnamurthy Petitioner/Accused

Vs

1. The Inspector of Police,
CBCID, Puducherry.
(Cr.No.13 of 2016) 1st Respondent/Complainant
2. R.Sivaraj 2nd Respondent/Defacto Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in Crime No.13 of 2016 on the file of the 1st respondent police, quash the same.

For Petitioner : Mr.C.S. Dhanasekaran
For R1 : Mr.Thangavel,
Addl. Public Prosecutor (Pondy)

सत्यमेव जयते
ORDER

This petition has been filed seeking to call for the records in Crime No.13 of 2016 on the file of the first respondent police and quash the same.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent State.

3. On the complaint given by one R.Sivaraj, the second respondent herein, the first respondent police registered a case in Cr.No.13 of 2016 dated 01.08.2016 for the offences u/s 419, 465, 468, 471 r/w 34 IPC against (i) Punniyamurthy, (ii)

R.Krishnamurthy and others. It is the case of the de facto complainant that Punniyamurthy had impersonated himself as Seenu Loganathan and given a power of attorney in the year 2006 to his own brother R.Krishnamurthy on the strength of which, created encumbrance in the property of the de facto complainant. Hence, the FIR.

4. The learned counsel for the petitioner submitted that already on the complaint given by one Sivaprakasam in respect of the same property, a prosecution in C.C.No.205 of 2010 was launched against R.Krishnamurthy, before the District Munsif-cum-Judicial Magistrate, Vanur and he was acquitted. Now, second complaint is not maintainable. That apart, the learned counsel for the petitioner submitted that the principal accused ***Punniyamurthy died on 19.09.2015.**

5. It is true that u/s 300 Cr.P.C., a person once acquitted, cannot be prosecuted again for the same offence. However, no prosecution has been launched before any Court in Cr.No.13 of 2016 as of now and therefore the question of invoking Section 300 Cr.P.C, will not arise now. In Cr.No.13 of 2016, the de facto complainant was R.Sivaraj, whereas, in C.C.No.205 of 2010, the de facto complainant was Sivaprakasam. It is always open to the first respondent police to go into all these aspects and during investigation, if it is found that the petitioner has already been prosecuted for the same offence and acquitted, it is needless to state that no final report can be filed against him.

6. In view of the above, this Court is of the view that it is too premature to quash the FIR. Accordingly, the Criminal Original Petition is dismissed with a direction to the first respondent police to bear in mind, the aforesaid facts, while conducting the investigation. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS VI)

Dated : 11.11.2016

***Amended as per order dated
18.11.2016 in CrI.O.P.24211 of 2016**

Sd/- Assistant Registrar(CS IV)

Dated : 28.11.2016

//True Copy//

Sub Assistant Registrar

kmi

To

1. The Inspector of Police,
CBCID, Puducherry.
2. The Public Prosecutor
(Pondicherry),
High Court, Madras.

To be Substituted to the Order
already despatched on
14.11.2016

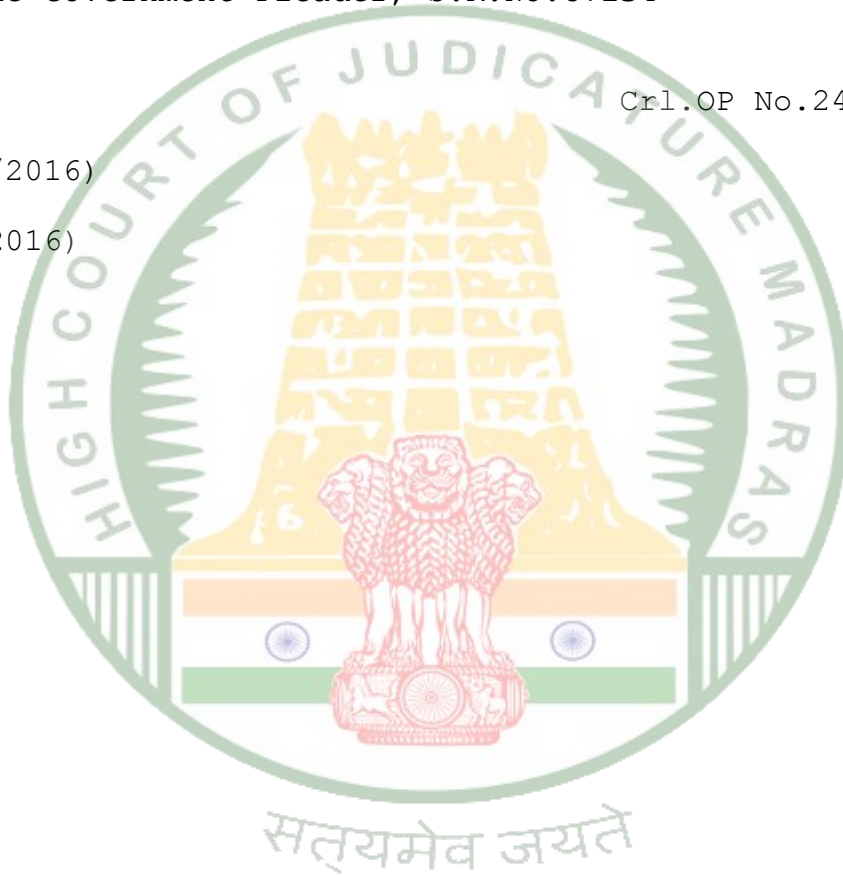
+1cc to Mr. C.S. Dhanasekaran, Advocate, S.R.No. **67872**

+1cc to the Government Pleader, S.R.No. **67134**

Cr1.OP No.24211 of 2016

GR(CO)
md (11/11/2016)

CA(28.11.2016)



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