IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal R.C. No.473 of 2017
and
Crl.M.P.No.4251 and 4252 of 2017

1.Srinivasan
2.Suresh Kennady
3.G.V.Appala Naidu
4.Joseph Jayakumar ... Petitioners

Vs.

The State, represented by
The Inspector of Police,
District Crime Branch
Namakkal
(Crime No.20/2012)) ... Respondent

PRAYER: Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code praying to set aside the order dated 22.02.2017 made in Cr.M.P.No.1684 of 2016 in C.C.No.85 of 2015 on the file of the Judicial Magistrate Court, Paramathi, Namakkal District.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.R.Ravichandran
Government Advocate (Criminal side)

For Defacto Complainant : Mr. N. Baskaran

ORDER

This revision has been filed challenging the order dated 22.02.2017, dismissing the petitioners application in Crl.M.P.No.1684 of 2016 in C.C.No.85 of 2015 by the learned Judicial Magistrate, Paramathi, Namakkal District.

2.There are totally nine accused. A1 to A9 stood charged for the offence under section 120b r/w 420 IPC and A1 to A5 stood charged for the offence u/s 420 r/w 109 IPC and A1 and A6 to A9 stood charged for the offence under Section 465, 467, 468, 471, 420 r/w 109 IPC. The case of the prosecution is that

A1 in this case, claiming to be a dealer of a manufacturing company at Amritsar in Punjab and he promised the complainant for purchasing some machineries from Amritsar, and A1 received a sum of Rs.12,00,000/- (Rupees Twelve Lakhs only) as advance from the complainant. Thereafter, A1 opened an account in the petitioner's bank in the name of one S.Vijay, who was working as car driver for A1, and the amount has been deposited in the above account. Subsequently, the above said Vijay left the employment, and A1 forged the signature of that Vijay and withdrawn the amount. The petitioners being bank employees are also conspired with other accused and committed offence. On coming to know that he was cheated by A1, the defacto complainant lodged a compliant before the respondent police and after investigation, the respondent police filed a charge sheet for the offences as mentioned above. Thereafter, the petitioners filed a petition Crl.M.P.No.1684 of 2016 in C.C.No.85 of 2015 to discharge them from the above charges. The Court below dismissed the petition. Challenging the same, the present revision has been filed.

3.Heard Mr.C.Prabakaran, learned counsel on behalf of the petitioner, Mr.R.Ravichandran, learned Public Prosecutor on behalf of the respondent and Mr.N.Baskaran, learned counsel on behalf of the defacto complainant.

4.Learned counsel for the petitioner would submit that all the petitioners are employees in the bank and from the materials available on record, there is no prima face case made out against them for the offence under Section 120b IPC or for the offence u/s.420 r/w 109 IPC. A6, was not working as the Manager in the bank at the relevant period. Hence he can not be implicated as accused in this case.

5.Per contra, learned counsel for the respondent submitted that there are ample materials are available to show that the petitioner also involved in the occurrence and all the petitioner colluded together and permitted A1 to withdraw the amount after obtaining a forged cheque and deliberately not uploaded the specimen signature of the account holder Vijay and permitted A1 to withdraw by means of forged cheque.

6.I have considered the rival submissions made by the learned counsels on either side. It is settled law that at the time of framing charges, court is required to evaluate materials and documents available on record to decide whether facts emerging therefrom taken at their face value would disclose existence of ingredients constituting the alleged offence. At this stage, the court cannot go deep into the probative value of the materials on record and the court also cannot evaluate sufficiency of evidence to convict accused. The court should consider the materials submitted by the prosecution alone and the accused is not entitled to produce any material at this stage and the court is also not required to consider any such material.

7.In the instant case, on perusal of the records, there are materials available on record, prima facie to show that all the petitioners herein are involved in the offence and that they have deliberately failed to upload the specimen signature of the account holder Vijay in the computer and permitted the A1 to withdraw the amount from his account. So far as the contention of the petitioner that A6 was not working as a manager at the time of occurrence is a matter for trial and it can not be considered at time of framing charges. The Court below considering all the above materials has dismissed the petition filed by the petitioner and I find no illegality or irregularity in the order passed by the Court below.

8.In the above circumstances, the revision fails and liable to dismissed. Accordingly it is dismissed. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To
1. The Judicial Magistrate Court,
   Paramathi, Namakkal District.
2. The Public Prosecutor,
   High Court of Madras.
3. The Inspector of Police,
   District Crime Branch,
   Namakkal
Copy to: The Section Officer,
   Criminal Section, High Court, Madras.

+ 1 cc to Mr. N. Baskaran, Advocate SR.22141
+ 1 cc to Mr.C. Prabakaran, Advocate Sr.22286

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AK(CO)
EU 13.4.17