

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED : 20.12.2017****CORAM****THE HONOURABLE MR. JUSTICE M.S.RAMESH****Crl.O.P.No.26021 of 2017**

K.N.sekar

... Petitioner

Vs

State by
The Inspector of Police,
T-1, Ambattur Police Station,
Chennai-600 053.
(Crime No.825 of 2013)

... Respondent

Prayer : Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in S.C.No.19 of 2017 on the file of Learned Principal Sessions Judge, Thiruvallur, Thiruvallur District in so far as the petitioner is concerned and quash the same.

For Petitioner : M/s.Anathanarayanan
for Mr.K.Balu

For Respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor

ORDER

The prayer sought for in the present petition is to call for the records in S.C.No.19 of 2017 on the file of Learned Principal Sessions Judge, Thiruvallur, Thiruvallur District in so far as the petitioner is concerned and quash the same.

2. The main ground on which the petitioner has been implicated for the offence under Sections 120 (B), 332 IPC, r/w. Section 3 (1) of TNPPDL Act., is on the basis of the confession of the co-accused. The Hon'ble Supreme Court of India, in many cases has held that the confession of a co-accused may not be sufficient for the purpose of holding the other accused guilty.

3. In one such the Judgment reported in *Prakash Kumar @ Prakash Bhutto v. State of Gujarat* (2007 CRI.L.J.2731) the Hon'ble Supreme Court in para-6 has held as follows:

"6. The confession of a co-accused by itself is not sufficient to hold the other accused guilty. It has been held repeatedly by this Court that the confession of a co-accused is a fragile and feeble type of evidence and it could only be used to support the other evidence, if any, adduced by the prosecution. (See: *Haricharan Kurmi v. Nalini and Others*, (1964 (6) SCR 623). Though in *State through Superintendent of Police, CBI/SIT v. Nalini and*

Others, (1999) 5 SCC 253, it has been held that confession is a substantive piece of evidence, but as a 'Rule of Prudence' the Court should seek other corroborative evidence to test its veracity."

4. In view of the settled proposition of law, the implication of the petitioner as accused, on the basis of confession of the co-accused may not be proper. In the result, the proceedings in S.C.No.19 of 2017 on the file of learned Principal Sessions Judge, Thiruvallur, Thiruvallur District, insofar as the petitioner herein is concerned stands quashed.

With the above observation the Criminal Original Petition stands allowed.

20.12.2017

Index:Yes/No
Internet: Yes/No
nmm

Note: Issue order copy on 22.12.2017

To

1.The Inspector of Police,
T-1, Ambattur Police Station,
Chennai-600 053.

2.The Public Prosecutor,
High Court, Madras.

M.S.RAMESH, J.
nmm



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