

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.06.2017

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.OP.Nos.23708 and 27937 of 2012

and

MP.Nos.1 and 2 of 2012

1.A.Asiam
S/o.Syed Anwar

2.M.Mubarack
S/o.Mohamed Ebrahim

3.M.Nazer
S/o.Mohamed Ali

4.B.Syed Anwar
S/o.Basha

.. Petitioners in Crl.O.P.No.23708 of 2012

1.H.Faizal,
S/o.Hyadh Basha

2.M.Sabeer
S/o.Mohamed Sardar

..Petitioners in Crl.O.P.No.27937 of 2012

Vs

1.The Inspector of Police,
D-1, Triplicane Police Station,
Chennai. (Crime No:203/2010)

2.Brindavan Chowdry

..Respondents in both the petitions

Criminal Original Petition filed under sections 482 of Criminal Procedure Code to call for records in C.C.No.2034 of 2010 on the file of learned XIII Metropolitan Magistrate , Egmore, Chennai and quash the same.

For Petitioners : Mr.K.S.Kumar
For Respondents : Mr.B.Ramesh Babu
Government Advocate(Crl.Side)[R1]
Mr.P.Ramesh Kumar [R2]

COMMON ORDER

Petitioners seek quash of proceedings in C.C.No.2034 of 2010 on the file of learned XIII Metropolitan Magistrate, Egmore, Chennai.

2. The prosecution case is that on 26.02.2010 at about 5.00 p.m. first accused called *de facto* complainant over phone and stated that he was an Income-Tax Officer, had come to know that 20 kgs of Gold was held by *de facto* complainant and *de facto* complainant had shown only 1 kilogram in his accounts. First accused asked *de facto* complainant to go over to Room No:210 of Perfect Lodge at Triplicane. When *de facto* complainant went over, A1 informed that he was an income tax officer and that a sum of Rs.10,00,000/- was to be paid to avoid a search of the smithy situated at the terrace of the defacto complainant's rented house. Fourth accused forcibly took ten thousand rupees from his pocket and sixth accused warned *de facto* complainant to pay Rs.10,00,000/- before 10 p.m. towards avoiding the search.

3. Heard learned counsel for petitioner and learned Government Advocate(Crl.Side).

4. Petitioners are arrayed as accused Nos.9 to 14 in C.C.No.2034 of 2010 on the file of learned XIII Metropolitan Magistrate, Egmore, Chennai. A very reading of the charge sheet informs that no role in the occurrence proper is attributed to these petitioners, who are sought to be arrayed as accused on the basis of confession statement of accused Nos.1 and 8. The relevant portion of the confession statement of first accused informs that he and his accomplices had schemed to act as Income Tax officers and extract monies from *de facto* complainant. The only matter of relevance which may be looked into in such confession statement towards determining the attribution of any wrong doing to these petitioners reads as follows:

'When I worked in the jewellery shop, I had relationship with Munna, an auto driver. I met him and requested him to arrange four or five persons for my personal work and assured him that I would give him enough money for the marriage expenses of his two daughters. I also told him that I would inform the place and time.'

5.The statement of eight accused only informs as follows:

'I had relationship with Sahib Samantho when i was an auto driver at Waltax Road. Sahib Samantho met me day before yesterday and requested me to provide four to five persons. He assured me of bearing the marriage expenses of my two daughters. When I was waiting at Parrys Corner along with

Assam, Mubharak, Paisal Sabeer, Naser, Syed Anvar. Today, we were caught.'

6. There is nothing to indicate knowledge of these petitioners of the wrong doing of accused 1 to 7. In the scenario, there is absolutely no material to see the involvement of these petitioners in the case being tried in C.C.No.2034 of 2010 on the file of learned XIII Metropolitan Magistrate , Egmore, Chennai.

These Criminal Original Petitions shall stand allowed. The proceedings in C.C.No.2034 of 2010 on the file of learned XIII Metropolitan Magistrate, Egmore, Chennai, shall stand quashed insofar as these petitioners are concerned. However, it is made clear that, if, in the course of trial, there is reason to suspect the involvement of these petitioners in the wrong doing alleged, it will always be open to the Court below to proceed under Section 319 Cr.P.C. Trial Court is directed to dispose of C.C.No.2034 of 2010 within a period of three months from the date of order. Connected miscellaneous petitions are also closed.

12.06.2017

Index: Yes/No
Internet: Yes
bri

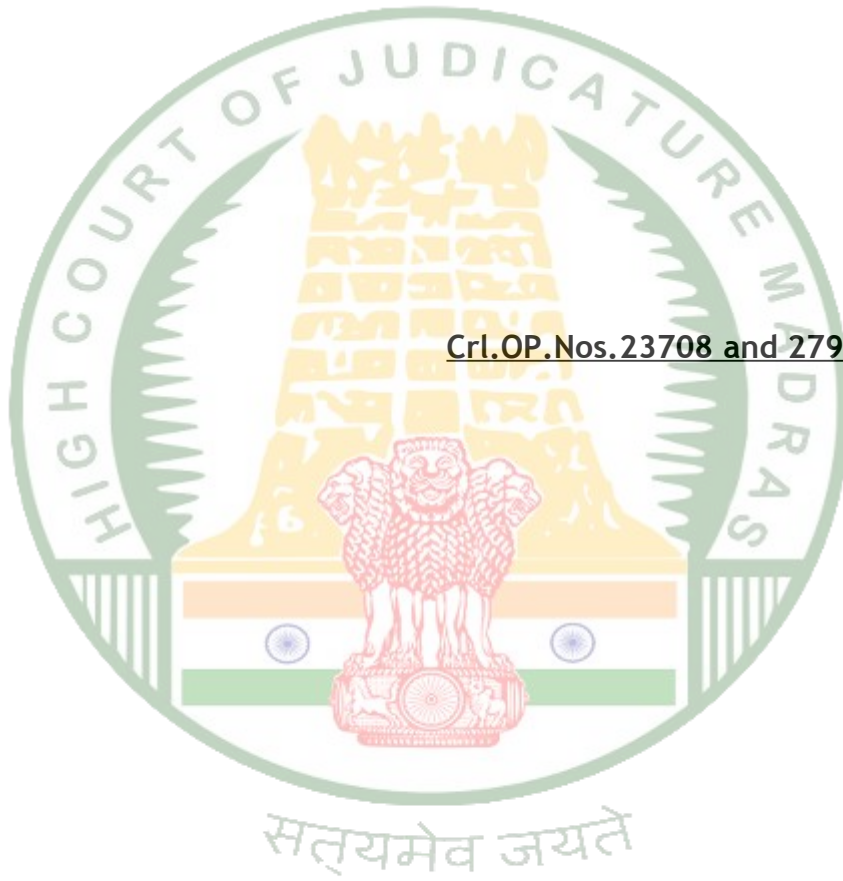
To

- 1.The XIII Metropolitan Magistrate,
Egmore, Chennai.
- 2.The Inspector of Police,
D-1, Triplicane Police Station,
Chennai.
- 3.The Public Prosecutor
High Court, Madras.



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C.T.SELVAM, J.



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