



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:03.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P.(MD)No.10139 of 2017

and

CRL.M.P.(MD)Nos.6922 and 6923 of 2017

R.Ramkumar

... Petitioner/Accused No.1

-Vs-

1. State Represented by its,
The Inspector of Police,
Bhoodhalur Police Station,
Tanjore District.
(Crime No.224 of 2016)

... Respondent/Complainant

2. Kamaraj

... Respondent/Defacto Complainant

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the Charge Sheet in C.C.No.45 of 2017 on the file of the learned Judicial Magistrate, Thiruvaiyaru, Thanjavur District, in Crime No.224 of 2016, dated 19.09.2016 on the file of the respondent No.1 and quash the same as illegal as against this petitioner.

For Petitioner : Mr.Lajapathi Roy

For R-1 : Mr.K.Anbarasan,
Government Advocate(Crl. Side).

O R D E R

This Criminal Original petition is filed for quashing the Charge Sheet in C.C.No.45 of 2017 on the file of the learned Judicial Magistrate, Thiruvaiyaru, Thanjavur District, in Crime No.224 of 2016, dated 19.09.2016 on the file of the respondent No.1, as against the petitioner.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Criminal side) appearing for the first respondent.

3. The petitioner states that a case was registered in Crime No.224 of 2016 on the basis of the complaint lodged by the second respondent/defacto complainant for the offence under Sections 341, 365, 294(b), 323, 506(ii) and 34 of I.P.C.



4. The case of the petitioner is that he is handicapped and working as a Teacher. His further case is that he is an innocent person and that he did not commit any offence. It was further stated that only on account of loan transaction by which the defacto complainant had received a loan amount of Rs.4.5 Lakhs from the petitioner, and in order to wriggle out of his liability to return the amount which is yet to be repaid to the petitioner, a false complaint has been lodged by the second respondent.

5. It is submitted by the learned counsel for the petitioner that it can be clearly shown that the statement of the witnesses including the defacto complainant which was relied upon by the respondent police in the charge sheet are contrary to the facts, given in the complaint. The fact that the complaint registered in Crime No.324 of 2016 disclose an offence is not in dispute. The reading of the First Information Report would clearly show that there were allegations to prosecute the petitioner for the offences under Sections 341, 365, 294(b), 323 and 506(ii) of I.P.C successfully. There is no material contradiction between the facts narrated in the complaint and the statements obtained from the petitioner and others under Section 161(3) of Cr.P.C.

6. Hence, the first point which was argued by the learned counsel for the petitioner is not sustainable. The truth or otherwise of the allegations found in the First Information Report is a matter for evidence and therefore, this Court at this stage of quashing the Charge Sheet cannot entertain the plea of the petitioner. In this case, the fact that the allegations found in the Charge Sheet are based on the complaint as well as the statements obtained from the witnesses is evident and hence no ground is made out to quash the charge sheet. Hence, the Criminal Original petition is dismissed. Taking into consideration the fact that the petitioner is a disabled person, having disability of 50%, this Court is inclined to dispense with the personal appearance of the petitioner, unless or otherwise it is specifically required by the lower Court. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar.



To

1. The Judicial Magistrate,
Thiruvaiyaru, Thanjavur District.
2. The Inspector of Police,
Bhoodhalur Police Station,
Tanjore District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

CRL.O.P.(MD)No.10139 of 2017

and

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AM/SKN RSK/SAR 2/29.08.2017/3P/4C