



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.OP.(MD)No.12673 of 2017 and
CRL.M.P.(MD)Nos.8764 & 8765 of 2017

R.Ganesa Moorthy

... Petitioner/Sole Accused

Vs.

1. The State represented by,
The Inspector of Police,
District Crime Branch,
Virudhunagar District.
(Crime No.23 of 2011)

... Respondent/Complainant

2. Kalidoss

... Respondent/Defacto Complainant

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the entire records pertaining to the case in C.C.No.132 of 2012 pending on the file of the learned Judicial Magistrate No.II, Virudhunagar, Virudhunagar District and to quash the same as against the petitioners.

For Petitioner : Mr.R.Anand
For R-1 : Mr.K.S.Durai Pandian,
Additional Public Prosecutor.

O R D E R

This Criminal Original petition is filed for quashing the criminal proceedings in C.C.No.132 of 2012 pending on the file of the learned Judicial Magistrate No.II, Virudhunagar, Virudhunagar District, as against the petitioner herein.

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

3. The second respondent/defacto complainant lodged a complaint as against the petitioner and a case was registered in Crime No.23 of 2011 for the offences under Sections 403, 465, 468, 471 and 400 I.P.C. The Charge Sheet was filed on 11.04.2012 for the offences under Sections 465, 468, 471 and 420 I.P.C. The



petitioner has now come forward with this petition after this length of time.

4. The learned counsel appearing for the petitioner submitted that the case of the defacto complainant is improbable and the allegations found in the First Information Report as well as in the statement of the witnesses obtained under Section 161(3) of Cr.P.C., would show that the case of the defacto complainant does not disclose the alleged offences.

5. The allegations in the First Information Report is that the petitioner and the father of the second respondent were doing the same business and they maintained a Joint Account. Though the business was closed long time back, there was some amount which was lying in the Joint Account of the petitioner and the father of the second respondent. The case of the defacto complainant is that the petitioner has withdrawn the entire amount by drawing a cheque with forged signature of the father of the second respondent. There are specific allegations against the petitioner and the allegations found in the First Information Report really constitute offences attracting the provisions of Sections 403, 465, 468, 471 and 406 I.P.C.

6. The learned counsel for the petitioner submitted that the amount might have been drawn by the father of the second respondent. The petitioner is a person who has also signed in the cheque.

7. This Court after going into the complaint lodged by the second respondent and the Charge Sheet is fully convinced that this is the case where the provisions of Sections 468, 465, 471 and 420 I.P.C., are attracted. The defacto complainant also should be given a fair opportunity to prove his case. Probability of the case cannot be a ground for quashing the Charge Sheet or the First Information Report. It is also settled that on the basis of factual submissions, contentious issues which are expected to be gone into by the Court at the time of trial cannot be decided at this stage.

8. In that view of the matter, this Court is of the view that there is no merits in this petition. Hence, the Criminal Original petition is dismissed. However, it is open to the petitioner to raise all his contentions at the time of trial.

9. The learned counsel for the petitioner requested this Court to dispense with the appearance of the petitioner.

10. It is also open to the petitioner to file appropriate petition for dispensing with his personal appearance and the Court will decide the same on merits. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Records)



To

1. The Inspector of Police,
District Crime Branch,
Virudhunagar District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Pmu

MAS/SKN-RSK/SAR2:20.10.2017:3P-3C

CRL.OP.(MD)No.12673 of 2017
03.10.2017