



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P.(MD)No.15624 of 2016

and

CRL.M.P.(MD)Nos.7429 and 7430 of 2016

B.Manivannan ... Petitioner / Accused

-Vs-

1.State of Tamilnadu represented by
The Inspector of Police,
Central Crime Branch - Unit II,
Madurai City, Madurai. ... Respondent / Complainant

2.T.Dhanabalan,
Chief Executive Officer,
Kalanjeum Thazhilagam Limited,
52, T.B.Road,
Mehaboobpalayam,
Madurai. ... Respondent / De-facto
Complainant

PRAYER: Criminal Original petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the charge sheet in C.C.No.110 of 2012 on the file of the Judicial Magistrate No.I, Madurai and quash the same.

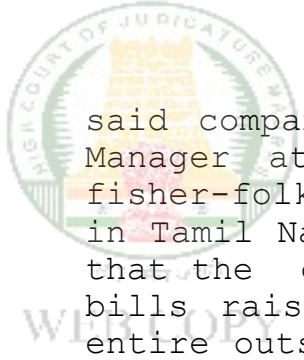
For Petitioner : Mr.A.V.Arun

For Respondents : Mr.A.Ramar,
Additional Public Prosecutor
for R.1
No appearance
for R.2

O R D E R

The petitioner has come forward with this petition to call for the records relating to the charge sheet in C.C.No.110 of 2012 on the file of the Judicial Magistrate No.I, Madurai and to quash the same.

2.The petitioner while working as a Manager of a company, by name, "Kalanjium Trading Limited", a complaint was lodged by the



said company stating that the petitioner was placed as a Product Manager at Cuddalore from 01.06.2008 to procure dry fish from fisher-folk community, exclusively and marketing at various places in Tamil Nadu. In such circumstances, it is stated in the complaint that the outstanding list was given to the petitioner based on the bills raised by him and the petitioner was asked to collect the entire outstanding amount of about Rs.56,00,000/- before the end of December-2009. It is further stated in the complaint that when the company officials had made a surprise visit, huge variations were found between the statements and the bills. In the complaint it was also stated that the petitioner when asked to give the actual outstanding amount and to reconcile the statement, he was absconding. It is further stated that on the basis of enquiries, the de-facto complainant could confirm that the outstanding amount as per the statement of the petitioner was not true and that the petitioner had collected the money and misappropriated a sum of Rs.56,00,000/-. A reading of the complaint would clearly disclose cognizable offences.

3. Thereafter the first respondent conducted a detailed investigation and filed a charge sheet after collecting materials and statements from several witnesses. The charge sheet clearly discloses the cognizable offence, particularly Sections 409 and 420 IPC.

4. The learned Counsel for the petitioner submitted that the responsibility of the petitioner was confined to procure dry fish from fisher folk at the rates determined by the company and transport the same to the prospective customers at Namakkal, Tirupur and Dindigul, among other places in Tamilnadu. It is further stated by the learned Counsel for the petitioner that he failed to recover the dues from the purchasers of dry fish from about 12 purchasers under various invoices to the tune of Rs.56,39,264/-. It is the factual submission of the learned Counsel for the petitioner that the de-facto complainant has no material evidence to avail the warrant of trial, against the petitioner, either under Sections 409 and 420 IPC. It is further stated that the petitioner cannot be tried for the offence of misappropriation or cheating without any material and that the final report also did not refer to any documents, namely the invoices. It is also submitted by the learned Counsel for the petitioner that the petitioner is neither a merchant nor an agent and that the charge sheet filed against the petitioner is unsustainable.

5. Going by averments in the complaint and the charge sheet, it can be seen that the allegations against the petitioner is that he has misappropriated to a tune of about Rs.56,00,000/- and that he cheated the de-facto complainant by collecting the amount payable by the purchasers and not accounting the same, in the course of business. The statement of the witnesses and the materials would clearly disclose that the charges are supported by sufficient evidences.



6.The truth or otherwise of the allegations cannot be gone into at this stage. The de-facto complainant should also be given sufficient opportunity to establish his case against the petitioner. Hence, in such circumstances, this Court is not in a position to accept any of the contentions raised by the learned Counsel for the petitioner. Hence this Criminal Original Petition is dismissed.

7.The learned counsel for the petitioner seeks indulgence of this Court to dispense with the presence of the petitioner.

8.Having regard to the diary extract produced by the learned counsel for the petitioner before this Court, the proceedings of the lower Court is dragged on only for the non- appearance of the witnesses. In such circumstances, the request of the learned counsel for the petitioner to dispense with the presence of petitioner is reasonable and hence, the presence of petitioner is dispensed with unless and until it is required by an order of the Court.

Having regard to the nature of complaint and the charge sheet pending as against the petitioner, this Court is also convinced for issuing a direction to the lower Court, for speedy disposal. Hence, the learned Judicial Magistrate No.I, Madurai, is directed to expedite the trial and dispose of C.C.No.110 of 2012 within a period of six months from the date of receipt of a copy of this order. The connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub-Assistant Registrar

To

1.The Judicial Magistrate No.I,
Madurai.

2.The Inspector of Police,
Central Crime Branch - Unit II,
Madurai City, Madurai.

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

+One cc to Mr.A.V.Arun, Advocate, SR.No.87505

cmr/gsp

RL/5C/3P/JC/SAR1/22/12/2017

CRL.O.P. (MD) No.15624 of 2016