



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

CRL OP(MD)No.4426 of 2017

and

CRL MP(MD)No.3169 of 2017

Prithviraj : Petitioner/Accused No.2

Vs.

1. The Superintendent of Police,
Dindigul District,
Dindigul.

2. The Deputy Superintendent of Police,
District Crime Branch,
Dindigul.

3. The Sub-Inspector of Police,
District Crime Branch,
Dindigul.

(Crime No. 35/2016). : Respondents 1 to 3 /Complainant

4.Ravishankar : 4th Respondent/De-facto
complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records in Crime No.35 of 2016 dated 19.10.2016 on the file of the third respondent and to quash the same as against this petitioner.

For Petitioner : Mr.J.Sulthan Basha

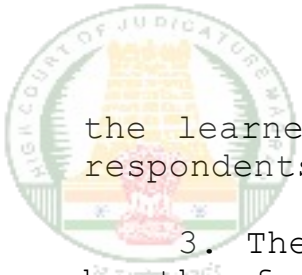
For Respondents : Mr.K.Anbarasan,
Government Advocate(Crl.Side).

O R D E R

This Criminal Original Petition has been filed by the petitioner, to quash Crime No.35 of 2016 dated 19.10.2016 on the file of the third respondent as against the petitioner.

<https://hcservices.ecourts.gov.in/hcservices/>

2. Heard the learned counsel appearing for the petitioner and



the learned Government Advocate(Criminal side) appearing for the respondents.

3. The case of the petitioner is that a complaint was lodged by the fourth respondent as against the petitioner, who is the second accused and another person by name, Karthick, son of Krishnamoorthy, who is the first accused. A case was registered in Crime No.35 of 2016, for the offences punishable under Sections 120(B), 406, 420, 465, 468 and 471 IPC.

4.The petitioner states that a similar complaint was also lodged by the fourth respondent before the first respondent on 27.07.2016. It is further submitted that the second respondent also conducted an enquiry and the first accused has categorically admitted his guilty and undertook to repay the amount towards the value of goods alleged to have been sold and misappropriated.

5.The petitioner, therefore, states that he is innocent and that he has not committed any offence, as alleged by the de-facto complainant in the complaint. It is further stated that the de-facto complainant once again lodged a complaint against the petitioner on 20.09.2016 and by influencing the third respondent, a case was registered against the petitioner / second accused. In the complaint lodged by the fourth respondent, the petitioner has been shown as a person involved in fabrication of documents, forgery and embezzlement of funds of the company.

6. The petitioner further states that he is only a clearing and forwarding agent and the goods were supplied as per instructions of the company. The first accused and one Chandrasekar alone received the amounts and issued the invoices and other bills.

7.The case of the petitioner cannot be accepted, for the simple reason that the petitioner himself admitted that he is the C&F agent. It is also the responsibility of the petitioner to see that the goods reach the destination, as per the invoices issued to the petitioner. In this case the allegation is that instead of sending the goods to the dealer, the petitioner and another have sold the company Goods directly in open market by preparing forged receipts.

8.Hence, the petitioner cannot be heard to say that he is not involved in the offence and that he did not commit any irregularity. The complaint is only at the stage of investigation. The factual issues, whether the petitioner is involved in the offence, whether the documents are fabricated and whether the funds were misappropriated or not, are all issues to be decided at the time of trial. The reasons assigned by the petitioner cannot be accepted for quashing the complaint itself.



9. The learned counsel for the petitioner refers to the statements of one Chandrasekar and Karthik obtained on 12.08.2016 and submitted that the statements do not say anything about the involvement of the petitioner. Merely because one of the co-accused admitted his guilt and undertook to make the payment in full, it cannot be presumed that the petitioner is not involved.

10. Hence, having regard to the facts and circumstances of the case, this Court is not inclined to entertain this petition. Hence this Criminal Original Petition is dismissed with cost of Rs.1,000/- (Rupees One Thousand only) payable to the Honourable Chief Justice Relief Fund of Madras High Court, Madras.

Sd/-

Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Dindigul District,
Dindigul.
2. The Deputy Superintendent of Police,
District Crime Branch,
Dindigul.
3. The Sub-Inspector of Police,
District Crime Branch,
Dindigul.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to M/S.Ajmal Associates , Advocate in SR.No. 72267

dss/gsp

AE/MR KKR/SAR1/11.09.2017/3P/6C

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and
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