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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2017

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THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD) No.5068 of 2017 and

Crl.M.P.(MD) Nos.3583 & 3584 of 2017

Chandran

... Petitioner/A1/A1

-vs-

1. State represented by
The Inspector of Police
Aviyur Police Station
Virudhunagar District.
(Crime No.70 of 2015)

... Respondent/Complainant/Complainant

2. Nehru Dasan

... Respondent/LW-1/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the Final Report as made in C.C.No.80 of 2017 on the file of the learned Judicial Magistrate No.II, Virudhunagar, Virudhunagar District in relation to Crime No.70 of 2015 on the file of the Inspector of Police Aviyur Police Station Virudhunagar District and quash the same as devoid of merits and illegal as against the petitioner and thus render justice.

For petitioner	: Mr.S.Palani Velayutham
For R1	: Mr.K.Anbarasan
	Govt. Advocate (Crl.Side)

O R D E R

This petition has been filed to call for the Final Report as made in C.C.No.80 of 2017 on the file of the learned Judicial Magistrate No.II, Virudhunagar, Virudhunagar District in relation to Crime No.70 of 2015 on the file of the Inspector of Police Aviyur Police Station Virudhunagar District and quash the same as devoid of merits and illegal as against the petitioner.

2. On the complaint lodged by the 2nd respondent, the 1st respondent Police registered a case in Crime No.70 of 2015 and after completing the investigation, filed a charge sheet in C.C.No.80 of 2017 under Section 420 IPC against Chandran and Jegadambal, challenging which, Chandran is before this Court.

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

3. Heard the learned counsel for the petitioner and the



learned Government Advocate (Crl.Side) appearing for the State.

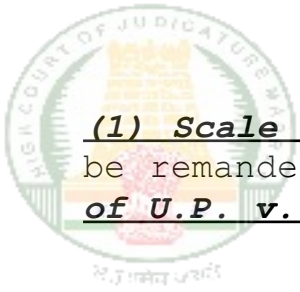
4. It is the case of the prosecution that a case of disproportionate assets to the known source of income has been registered against the petitioner and the property in S.No.2/102 series that is said to be belonging to his wife Jegadambal was mortgaged with Indian Bank and an agricultural loan was obtained. It is seen that the said property was also taken into consideration as a part of disproportionate assets to the known source of income of Chandran in the prosecution under the P.C.Act. While so, Chandran and Jegadambal had suppressed this fact and entered into a sale agreement on 10.11.2014 with R2 herein for selling the said property and had received an advance amount of Rs.10,00,000/- on the promise that they will produce the original title deed in 41 days. Thereafter, the 2nd respondent came to know that the said property, which is in mortgage with Indian Bank has been frozen in the disproportionate assets case.

5. From the reading of the charge sheet, there are prima facie materials against Chandran, inasmuch as it is alleged that he knew that the said property has been frozen by the Police in the prosecution under the P.C.Act against him. While so, he and his wife received Rs.10,00,000/- from the 2nd respondent and it is reported that A2 died.

6. Hence, this is not a fit case for quashing the proceedings in C.C.No.80 of 2017 on the file of the learned Judicial Magistrate No.II, Virudhunagar, Virudhunagar District and therefore, this petition is dismissed. Consequently, connected miscellaneous petitions are closed.

7. At this juncture, learned counsel for the petitioner sought leave of this Court to dispense with the personal appearance of the petitioner before the Trial Court.

8. Accepting the submission, this Court directs the accused to appear before the Trial Court for collecting the final report and other papers under Section 207 Cr.P.C., if not already received, for framing of charges and for questioning under Section 313 Cr.P.C. and on the day of judgment. For all other dates, if the accused files an application under Section 317 Cr.P.C., undertaking that he will not dispute his identity and that his counsel will cross-examine the prosecution witnesses in his absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If the accused absconds, the Magistrate shall direct the registration of a fresh FIR under Section 229-A IPC. The accused shall cross examine the witnesses on the date of their examination in chief and there shall be no adjournment as held by the Hon'ble Supreme Court in the case of **Vinod Kumar vs. State of Punjab** reported in **2015**



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(1) Scale 542. If the accused adopts any dilatory tactics, he can be remanded to custody as laid down by the Supreme Court in State of U.P. v. Shambu Nath Singh [2001(4)SCC 667].

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To:

1 The Judicial Magistrate No.II,
Virudhunagar,
Virudhunagar District.

2. The Inspector of Police
Aviyur Police Station
Virudhunagar District.

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

+1 CC to Mr.S.PalaniVelayutham, Advocate, SR No. 54396

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PSM/SV/SAR4/10.05.2017/3P/5C

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25.04.2017