



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P. (MD) No.7783 of 2017

and

CRL.M.P (MD) Nos.5309 and 5310 of 2017

Mohamed Abdulla

: Petitioner/Accused No.2

-Vs-

1. The State represented by
The Inspector of Police,
Thiruppathur Town Circle,
Sivagangai District.
In Crime No.19 of 2016.

: 1st Respondent/Complainant

2. M.Thangarajan

: 2nd Respondent/Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code to call for the records pertaining to the charge sheet in P.R.C.No.19 of 2016 on the file of the Judicial Magistrate Court, Thiruppathur and quash the same as against the petitioner.

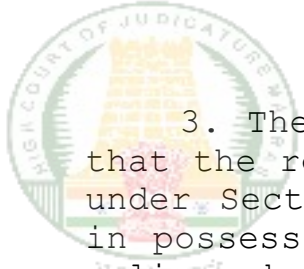
For Petitioner : Mr.R.Senthil Kumar

For Respondents : Mr.K.Anbarasan
Government Advocate (Crl.Side)
for R.1

O R D E R

On 28.01.2016, the police were conducted regular vehicle check and at that time, they stopped a car bearing Registration No.TN-49-9900, in which four persons were travelling. On suspicion, when the police searched the car, they found that each of them were having Rs.2,000/- counterfeit notes and also other notes and they were arrested and a case in Cr.No.19 of 2016 was registered on 28.01.2016 for the offences under Section 489(B) I.P.C. After completing the investigation, the police have filed a charge sheet in P.R.C.No.19 of 2016 before the learned Judicial Magistrate, Thiruppathur against five accused for offences under Sections 489 (B) and 489(C) I.P.C., challenging which, Accused No.2 is before this Court.

2. Heard the learned Counsel appearing for the petitioner/accused No.2 and the learned Government Advocate (Crl.Side) appearing for the first respondent.



3. The learned Counsel appearing for the petitioner submitted that the respondent police ought not to have registered the F.I.R. under Section 489(B) I.P.C., because the accused were found only in possession of the alleged counterfeit notes and therefore, the police should have registered the F.I.R. only under Section 489(C). He also contended that the police have improved the case from the stage of F.I.R., in the charge sheet by bringing a fifth person as accused and they have included both Sections 489(B) and 489(C) I.P.C., which itself shows that the prosecution is tainted.

4. The learned Counsel for the petitioner further submitted that there was no *mens rea* for the accused and that they were merely having counterfeit notes along with regular notes. Therefore, he submitted that the accused themselves did not know that the said notes were counterfeit notes.

5. Per contra, the learned Government Advocate (Crl.Side) appearing for the first respondent refuted the submissions made by the learned Counsel for the petitioner.

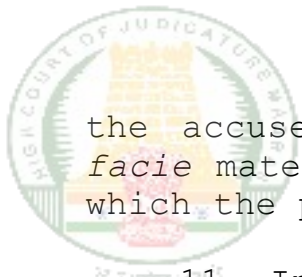
6. This Court gave its anxious consideration to the rival submissions made by both sides.

7. In this case, during regular vehicle check up, the police checked the car. When the four inmates in the car were questioned by the police, they gave contradictory statements which conduct arises suspicion in the mind of the police. Thus the conduct of the accused, when the police intercepted them as stated in the F.I.R., is relevant under Section 8 of the Indian Evidence Act. Thereafter, the police found that the accused were in possession of Rs.2,000/- counterfeit notes along with the regular notes. Hence, they were arrested, as they were not able to give proper explanation at that time.

8. During the investigation, it came to light that the petitioner had worked in tandem with one Ravuthar Sha (A.5) and they were circulating the counterfeit notes. The provision of law given in the charge sheet by the police is not final. The charges will have to be framed by the trial Court, after reading the final report and accompanying documents and not merely on the opinion of the Investigating Officer.

9. The learned Counsel for the petitioner submitted that the statements of the witnesses which have been obtained by the police are in a very pedestrian fashion and therefore, this Court should disbelieve those statements.

10. In the opinion of this Court, the police statements <https://hse.cerules.gov.in/hse-services> Section 161(3) Cr.P.C., cannot be read as evidence in a proceedings under Section 482 Cr.P.C. Those statements can be used only to decide if there are *prima facie* materials against



the accused for prosecuting them. Thus, when there are *prima facie* materials against the petitioner, this is not a fit case in which the prosecution can be quashed at the threshold.

11. In the result, this Criminal Original Petition is devoid of merits and the same is dismissed. Consequently, the connected Miscellaneous Petitions are also dismissed. The trial Court shall proceed with the trial without in any manner being influenced by what is stated above and liberty is given to the petitioner to raise all his defences during the trial.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate Court, Thiruppathur
2. The Inspector of Police,
Thiruppathur Town Circle,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Senthil Kumar, Advocate Sr.No.62106

SSL

VB/MR/SAR1/10.07.2017/3P/5C

CRL.O.P. (MD) No.7783 of 2017

23.06.2017