

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

Crl.O.P.No.12720 of 2011 and
M.P.Nos.1 & 2 of 2011

K. Sugumaran

...Petitioner/Accused No.2

Vs.

The Inspector of Police,
Central Crime Branch,
Chennai.
[Crime No.433 of 2009]

...Respondent/complainant

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code to call for the records in C.C.No.11863 of 2010 on the file of XI Metropolitan Magistrate, Chennai and to quash the charge sheet.

For Petitioner : Mr.S.Palanirajan
For Respondent : Mr.T.Shanmugarajeswaran
Govt. Advocate (Crl. Side)

सत्यमेव जयते
ORDER

The petitioner / second accused has filed this application to quash the proceedings pending against him in C.C.No.11863 of 2010 on the file of the 11th Metropolitan Magistrate, Chennai.

2. The case of the prosecution is that the first accused, namely, Jayganesh, along with one Perumal are running a company in the name and style of M/s.Food Pro Exports Ltd., at Chennai. They had a transaction with the Indian Overseas Bank, Indra Nagar Branch, Chennai - 20 and had also availed cash credit facility upto Rs.55,00,000/-, by showing the properties of Perumal at Choolaimedu as collateral security. In the said

transaction, the petitioner / second accused, who is the father of the first accused, namely, Jayganesh, stood as a guarantor. The accused persons failed to pay the cash credit facility to the Bank and on enquiry, it was found that the accused have created forged documents of the properties and have impersonated Perumal and have availed the loan from the Bank. On the complaint made by the Manager, Indian Overseas Bank, Indra Nagar, Chennai, the case was registered by the respondent Police in the year 2009 and after completing the investigation, the respondent Police has also filed the final report as against this petitioner and two others.

3. Pending trial, one of the accused died and this petitioner / father of the first accused approached this Court on the ground that he is only a guarantor to the loan availed by the first accused and it is the first accused, who defaulted the loan amount and this petitioner is no way connected with M/s.Food Pro Exports Ltd., run by the first accused.

4. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner is none other than the father of the first accused, namely, Jayganesh. This petitioner and the first accused have impersonated one Perumal of Choolaimedu and have created forged documents and with the strength of the forged documents, have given surety in the Indian Overseas Bank and availed cash credit facility and thereby, cheated to the tune of Rs.55,00,000/-. Moreover, the petitioner has moved this application without even arraying the defacto complainant as party to the proceedings and therefore, he prays for dismissal.

5. Heard the learned Counsel appearing on either side and perused the documents placed on record.

6. This quash application has been filed by the petitioner / second accused without arraying the defacto complainant as a party to the proceedings. This Court, by order dated 07.08.2017, has directed the petitioner to implead the defacto complainant as a party to the proceedings. Even then, no steps were taken by the petitioner to implead the defacto complainant.

7. It is the specific case of the respondent Police that this petitioner / father of the first accused along with the first accused has created forged document and by impersonating one Perumal and in the strength of the forged document, availed cash credit facility from the Bank and also cheated to the tune of Rs.55,00,000/-.

8. Considering the facts and circumstances of the case and the nature of offence, this Court is not inclined to entertain this application. Perusal of record shows that the final report was filed as early as in the year 2010. By filing this quash application, the proceedings before the trial Court has been stalled for more than eight years. Therefore, this Criminal Original Petition is dismissed, with a direction to the learned 11th Metropolitan Magistrate, Chennai, to proceed with the trial in C.C.No.11863 of 2010 and complete the same as expeditiously as possible, in accordance with law, in any event, not later than one year from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

MSM

To

- 1.The 11th Metropolitan Magistrate,
Chennai.
2. The Chief Metropolitan Magistrate, Chennai.
- 3.The Inspector of Police,
Central Crime Branch,
Chennai.
- 4.The Public Prosecutor,
High Court,
Madras 104.

CRL.O.P.No.12720 of 2011

adl/29.05.2020

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