

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.20393 of 2018
and CRL.M.P.Nos.10961 & 10962 of 2018

N.Thirunavukkarasu ... Petitioner

Vs

1. The State Rep by
The Inspector of Police,
DCB., Kancheepuram.
2. The Deputy Superintendent of Police,
DCB, Kancheepuram.
3. P.George Edison. ... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C.,
to call for the records in C.C.No.203 of 2018 on the file of the
District Munsif-cum-Judicial Magistrate Court, Sriperumbudur,
and quash the proceedings as illegal.

For Petitioner: Mr.R.Venkatesan
For Mr.T.Vijayashankar
For Respondents
For R1 & R2 : Mr.C. Raghavan,
Govt. Advocate.

For R3 : Mr.P.George Edison
Party-in-person.

O R D E R

On the complaint lodged by the third respondent, the first respondent police registered a case in Crime No.11 of 2013 and after completion of investigation, the first respondent filed a charge sheet dated 21.04.2015 before the learned District Munsif-cum-Judicial Magistrate, Sriperumbudur for the offences under Section 420 r/w 34 of IPC against A1-Saravanan, A2-Kumar and A3-Thirunavukkarasu, for quashing which, Thirunavukkarasu (A3) is before this Court.

2. Today, Mr.George Edison, de-faco complainant is present before this Court.

3. Mr. R.Venkatesan, the learned counsel for the petitioner/A3 submitted that the petitioner is only an Auditor and that he was not involved in the offence as alleged by the de-facto complainant. The learned counsel brought to the notice of this Court to an affidavit that is said to have been filed by the de-facto complainant before the learned District Munsif-cum-Judicial Magistrate, Sriperumbudur, wherein the de-facto complainant admitted that he has received a sum of Rs.15 lakhs from the family members of Thirunavukkarasu and agreed to drop the prosecution as against him. However, the de-facto complainant submitted that he had given Rs.30 lakhs to the accused and still a sum of Rs.15 lakhs is due to him.

4. This Court gave its anxious consideration. On the arrest of Thirunavukkarasu by the Police, the family members of Thirunavukkarasu had approached the de-facto complainant and they had paid a sum of Rs.15 lakhs to the de-facto complainant. When the same was questioned by this Court, the de-facto complainant fairly admitted the same. It is seen that the de-facto complainant has filed sworn affidavit dated 08.07.2013 before the learned District Munsif-cum-Judicial Magistrate, Sriperumbudur in the bail application filed by Thirunavukkarasu, wherein the de-facto complainant stated as follows :-

"4. I submit that the above A3-Thirunavukkarasu and his family members ready and approach me for compromise for his proportionate share amount of Rs.15,00,000/- (Rupees fifteen lakhs only) and I also agree to receive the same and made for compromise.

5. I submit that the above amount this day we received and matter also compromise and settled out of Court. I undertake to compound the matter at the time of trial.

Therefore, I pray that this Hon'ble Court may be considered the bail application being the matter settled out of Court, hence the above A3-Thirunavukkarasu may be released on bail and thus render justice."

On the consideration of this affidavit, Thirunavukkarasu was released on bail. The Police were unaware of the fact and included Thirunavukkarasu as one of the accused in this case. On a reading of the charge sheet, it appears that A1-Saravanan and A2-Kumar had shown a land to the de-facto complainant and had received a sum of Rs.30 lakhs from him. The only allegation against Thirunavukkarasu is that he was present along with A2.

5. This Court feels that there are sufficient material for trial to proceed as against Saravanan A1 and Kumar A2. It is not a case of misappropriation or creating of forged documents. This is a case of simple cheating.

6. In view of the above, the prosecution in C.C.No.203 of 2018 as against the petitioner-Thirunavukkarasu alone is hereby quashed and the criminal original petition is allowed. However, the trial as against Saravanan (A1) and Kumar (A2) shall proceed in accordance with law. This order is passed only in respect of Thirunavukkarasu and it does not cover the other accused viz., Saravanan (A1) and Kumar (A2). Consequently, connected miscellaneous petition is also closed.

-s/d-
Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

rts/vkr
To

1. The District Munsif-cum-Judicial Magistrate,
Sriperumbudur.
 2. The Deputy Superintendent of Police,
DCB, Kancheepuram.
 3. The Inspector of Police,
DCB., Kancheepuram.
 4. The Public Prosecutor,
High Court Madras.
- +1 CC to Mr.T. Vijayshankar, Advocate sr 60176.

CRL.O.P.No.20393 of 2018 and
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SS (CO)
SP (03/10/2018)

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