

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 22.06.2018

Pronounced on : 03.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.23034 of 2010

and

M.P.No.1 of 2010

Subasini,
D/o. (Late) Elumalai ... Petitioner/Accused No.2

Vs.

State by Inspector of Police,
District Crime Branch,
Kancheepuram,
Kancheepuram District,
Crime No.17/2000 ...Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.231 of 2003 on the file of the Judicial Magistrate Court No.1, Kancheepuram and quash the same.

For Petitioner : M/s.C and K Law Firm

For Respondent : Mr.Hari Hara Arun Soma Sankar
Government Advocate

O R D E R

This Criminal Original Petition is filed to call for the records in C.C.No.231 of 2003 on the file of the Judicial Magistrate Court No.1, Kancheepuram and quash the same.

2.The above quash petition has been filed by the petitioner, who is the 2nd accused in C.C.No.231 of 2003 which is pending trial on the file of Judicial Magistrate Court No.1, Kancheepuram. The respondent is the District Crime Branch, Kancheepuram District. The respondent had registered a case against the petitioner and another accused Prabakaran, Driver in Telephone Department in Crime No.17 of 2000 for the offences under Section 420, 463, 468, 471 IPC. On completion of

investigation, a final report had been filed under Section 420, 468 and 409 IPC. The trial court have taken it on file in C.C.No.231 of 2003. Aggrieved for the same, the above petition has been filed.

3.The facts of the case is that the informant P.Ramani, who is an Ex-serviceman after discharge from the Army had been seeking employment. The 1st accused, who is working in Department of Telecommunication had been approached, who had promised that he knew officers working in Telecom Department through whom the 1st accused can able to get appointment for the informant, for which the 1st and 2nd accused the petitioner herein had received various sums during 1999. Thereafter, the 1st accused had handed over a forged appointment order stating that the informant has been appointed as Department Driver issued by Sub-Divisional Engineer, Chennai, which proved to be forged. Hence, the petitioner and the other accused had invited the above case.

4.The contention of the learned counsel for the petitioner is that it is the other accused, who had demanded and received the sums for appointment and he is the person, who has given the letter of appointment and this petitioner has no role in the above offence and further, contended in the FIR, the petitioner has been described as the lover of the first accused and in charge Sheet she has been mentioned as wife of the 1st accused. Further, the offence is said to have been committed in the year 1999 and the complaint been given only on 01-07-2000 and no reason for the delay has been given. Further, the above case which was taken on file in the year 2003 till filing of this petition no witnesses have been examined and due to the inordinate delay, the petitioners right to speedy trial has been infringed and as such the petitioner is entitled to be relieved from the above case. The petitioner also relied upon the judgment of Supreme Court in the case of MOTILAL SHARAF VS. STATE OF Jammu & Kashmir reported in 2006(10) scale 12.

5.The respondent/complainant had filed a counter reiterating what are all said in the final report stating that there are seven persons who have been examined statements obtained who have categorically spoken about the role played by the petitioner and the other accused in the above offence and there are sufficient materials to proceed against them and prayed that the petition filed by the petitioner is devoid of merit and to be dismissed.

6.It could be seen that it is a case of deception and cheating wherein an Ex-Serviceman has been deceived and cheated. Further, the other accused, who is an employee of Telephone department had created a forged appointment order which is a

serious offence. Not only he had created forged document he had been taken the informant to the Kilpauk Government Hospital for medical examination along with certain documents and the role played by this petitioner in commission of the offence. On perusal of the complaint, it is apparent that this petitioner had played an active role in the commission of the above offence along with the other accused. The petitioner's contention is that no progress in the above case is made. It could be seen that the other accused in the above case is yet to appear and the reason for non progress is due to non appearance of the other accused and there is no delay on the part of the respondent. The citation relied on by the petitioner is not applicable to the above case.

7. In view of the above factual and legal matrix the quash petition filed by the petitioner is liable to be dismissed. Further, the trial court is directed to dispose of the above case, which is pending trial from the year 2003, within a period of six months if summons to the other accused is yet to be served effective coercive steps through his department to be taken immediately to serve the summons on him.

8. With these observations, the Criminal Original Petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate No.1,
Kancheepuram.

2. The Inspector of Police,
District Crime Branch,
Kancheepuram,
Kancheepuram District,
Crime No.17/2000.

3.The Public Prosecutor,
High Court, Madras.

+lcc to M/s.C.Munusamy, Advocate sr.no.42833

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