



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE P.N.PRAKASHCrl.O.P.(MD) No.24247 of 2015 and
M.P.(MD) Nos.1 & 2 of 2015

K.A.Abdul Kshan

... Petitioner/Accused

vs.1. Union of India,
rep.by its Inspector of Police
CBI/ACB, Chennai.(Crime No.RC MA1 2014 A 0030/2014) ... 1st Respondent/Complainant2. The Chief Regional Manager
Indian Overseas Bank
Regional Office
Anna Nagar, Madurai... 2nd Respondent /
De facto Complainant

PRAYER: Criminal original petition filed, under Section 482 Cr.P.C., to call for the records in framing charges against the petitioner in C.C.No.3 of 2015, on the file of the Chief Judicial Magistrate, Madurai and quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.K.P.S.Palanivel Rajan

For Respondents : Mr.J.Jeyakumar

Spl.P.P. for C.B.I.Cases for R1

Mr.N.Dilip Kumar for R2

ORDER

When the matter was taken up for hearing, the learned Special Public Prosecutor for C.B.I.Cases submitted that charges have been framed against the accused and trial has commenced.

2. However, the learned counsel for the petitioner placed reliance upon the decision of the Honourable Supreme Court in **Sathish Mehra vs. State of N.C.T. of Delhi**, reported in **2013 Cri.L.J.411**, wherein, it has been held that just because the trial had begun in a case, it does not mean that there is no jurisdiction for the High Court to quash the prosecution. At this juncture, it would be relevant to refer Para 15 of the said decision, which reads as follows:

"15.The power to interdict a proceeding at the threshold or at an intermediate stage of the trial is inherent in a High Court on the broad principle that in case the allegations



made in the FIR or the criminal complaint, as may be, *prima facie* do not disclose a triable offence there can be reason as to why the accused should be made to suffer the agony of a legal proceeding that more often than not gets protracted. A prosecution which is bound to become lame or a sham ought to be interdicted in the interest of justice as continuance thereof will amount to an abuse of the process of the law....."

3. In the case involved in the above cited decision, the F.I.R., was registered in the year 1994 and the Honourable Supreme Court found that there were no *prima facie* materials as against the accused therein. However, in the present case, the allegation made against the accused is that he had given bogus bills as if he had supplied raw-materials to two beneficiaries, namely, Karthikeyan and Nagendran. However, the statement of Karthikeyan recorded by the respondent - Police shows that he never went to the petitioner and obtained quotation, but whereas it is the specific case of the prosecution that S.P.K.Selvam / A1 had obtained quotations from various persons, including the petitioner herein, and submitted the same to the second respondent - Bank for grant of loan under S.J.S.R.Y.Scheme floated by the Central Government. In such view of the matter, this is not a fit case to quash the prosecution as the disputed question of facts cannot be gone into a petition filed under Section 482 Cr.P.C. However, it is open to the petitioner to cross-examine Karthikeyan and establish that the quotations were obtained by him in reality.

4. With the above observation, the criminal original petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To:

1. The Chief Judicial Magistrate,
Madurai.
2. The Special Public Prosecutor for C.B.I.Cases,
Madurai Bench of Madras High Court, Madurai.
3. The Inspector of Police,
CBI/ACB, Chennai.

+ 1 CC TO Mr.K.P.S.PALANIVEL RAJAN, ADVOCATE IN SR No. 40560

+ 1 CC TO Mr.N.DILIP KUMAR, ADVOCATE IN SR No. 40494

KRK

TE/MR/SAR-3 : 23/01/2018 : 2P/6C