



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P.(MD)No.2753 of 2013
and M.P.(MD)No.1 of 2013

B.T.Kumar @ Arasakumar ... Petitioner/ Accused No.1
Vs.

1.State by its
Inspector of Police,
Allinagaram Police Station,
Allinagaram, Theni District.
(Crime No.12 of 2013). ... 1st Respondent/ Complainant

2.Manikandan ... 2nd Respondent/ Defacto Complainant

PRAYER: The Petition filed under Section 482 Cr.P.C. to call for the records relating to the case in Crime No.12 of 2013 pending investigation on the file of the first respondent and quash the same with regard to this petitioner.

For Petitioner : Mr.S.Ravi
(for E.V.N.Siva)
For R1 : Mr.A.Robinson, G.A.(Crl.side)
For R2 : Mr.P.Muthuvijayapandian

ORDER

This Criminal Original Petition has been filed to call for the records relating to the case in Crime No.12 of 2013 pending investigation on the file of the first respondent and quash the same with regard to this petitioner.

2.The petitioner herein is the first accused in Crime No.12 of 2013 on the file of the respondent Police. The case has been registered for the offence punishable under Section 406 & 506 IPC. Admittedly, the de facto complainant and the petitioner herein are the members in Umayal Educational Development Trust. At the time of admitting this petition, this Court passed an order, directing the respondent Police not to file a final report in this case until further orders.

3.So as of now, as per the submissions made by the learned Government Advocate (Crl.side) part of the investigation is completed and charge sheet alone has to be filed before the concerned Court.

4.On going through the allegation levelled by the de facto complainant, the petitioner herein received a sum of Rs.65,00,000/-



from the de facto complainant on agreeing to hand over the management of the said Trust, for which, the petitioner received so many cheques and other things. At the same time, he handed over the management of the Trust on 27.08.2010.

5. Only on verification by the de facto complainant, it came to the knowledge that the recognition of the institution was cancelled on 29.07.2010 by NCTE.

6. According to the petitioner, the management of the said Trust was handed over to the de facto complainant on 14.06.2010. Subsequently, only on 29.07.2010, the recognition was withdrawn by NCTE. At the same time, the learned Government Advocate (Crl.side) appearing for the respondent Police submitted that only on 27.08.2010 the amount, which was now in dispute, was handed over to the petitioner. Now, culminating the entire happenings, it is seen that if the petitioner is having bona fide intention, it is not necessary to receive the disputed amount on 27.08.2010, since the recognition was cancelled on 29.07.2010.

7. So, without mentioning the cancellation of recognition, the petitioner herein received a sum of Rs.65,00,000/- and thereby the act committed by the petitioner is constituted the offence of 420 IPC. In the above circumstances, only extensive investigation reveals that whether the petitioner is having the dishonest intention or not.

8. Accordingly, the reasons submitted by the petitioner for quashing FIR is not satisfactorily explained. Thereby, this Court is not inclined to quash the FIR. In view of the above, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is dismissed. The Trial Court is directed to decide the case on merits, uninfluenced by the observations made in this order.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To

- 1 Inspector of Police,
Allinagaram Police Station,
Allinagaram, Theni District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl.O.P. (MD) No.2753 of 2013
and M.P. (MD) No.1 of 2013
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