



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 18.01.2018

Delivered on : 06.02.2018

WEB COPY

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P.(MD)No.5864 of 2013

and

M.P.(MD)No.1 of 2013

B.T.Kumar @ B.T.Arasa Kumar

... Petitioner

Vs.

1. State Rep. by

The Inspector of Police,

District Crime Branch Police Station,

Pudukottai, Pudukottai District.

2.A.Eruvan

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the Final Report / Charge Sheet in C.C.No.125 of 2012, on the file of the Judicial Magistrate Court, Alangudi, Pudukottai District.

For Petitioner : Mr.S.Ravi

For R1 : Mr.K.Suyambulinga Bharathi

Government Advocate (Crl. Side)

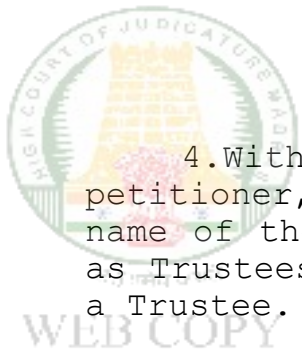
For R2 : No Appearance

ORDER

The petitioner herein the second accused in C.C.No.125 of 2012 on the file of the Judicial Magistrate, Alangudi, Pudukkottai District.

2.The first respondent herein filed the abovesaid case for the offences under Sections 406, 420 and 506(i) IPC. Now, the petitioner filed this application under Section 482 Cr.P.C., to quash the entire proceedings initiated against him.

3.The first and foremost contention raised by the petitioner is that he is not a Trustee in a Trust created in the name of Sri Thiyagaraja Educational Development and Charitable Trust [hereinafter called as 'the Trust'], in which, the witnesses, who are all cited in the charge sheet are all added as Trustees. Without knowing the said aspect, the first respondent police laid a charge sheet against this petitioner, is nothing but illegal.



4. With regard to the above contentions raised by the petitioner, it is necessary to see the Trust Deed created in the name of the Trust. In the Trust Deed, totally 7 Members are added as Trustees, in which, nowhere it is stated that the petitioner is a Trustee.

5. Further, in the charge sheet, one Irulan, who is the de-facto complainant, made allegation against the petitioner as with the connivance of this petitioner, the first accused in that case, who is the brother of this petitioner, issued a cheque for Rs.6,30,000/- after knowing that the account was closed earlier to the date mentioned in the cheque. Even though the de-facto complainant made allegation as above, he himself admitted in the FIR itself that the cheque was issued only by the first accused, named as P.T.Ravi @ Ravichandran in this case. So, automatically being the Drawer of the cheque, the first accused alone is responsible for the allegation of dishonouring the cheque. Since the petitioner is not a Trustee in the Trust Board, we cannot come to the conclusion that this petitioner with dishonest intention has induced the first accused in that case for issuing a cheque, who is not having any account in force. The second allegation levelled against the petitioner is that the petitioner along with his brother after receiving Rs.6,00,000/- from L.W.2 - Palaniappan and L.W.3 - Rama Balasundaram, did not make any arrangement for including them as Trustees in Thiyagaraja Teacher Training Institute as promised earlier at the time of receiving Rs.6,00,000/-. Now, on going through the Trust Deed related to the Trust, it is seen that the said two witnesses are not included as Trustees in the Trust. In this occasion also, it is to be noted that the second accused in that case, who is the petitioner herein is not added as a Trustee. Since the petitioner herein is not being the Trustee, automatically, he can be treated as a third party to the concerned Trust. So, the allegation made against him with regard to the issuance of cheque goes only against the first accused, who is the brother of the petitioner and not against him. Furthermore, the de-facto complainant in this case being the Trustee of the Trust, lodged a complaint for not showing the accounts as promised and being the Trustee, he can very well file a suit for the said relief. So, the dispute between the de-facto complainant and the petitioner may be civil in nature. But, without looking into the said aspect, the first respondent police laid a charge sheet against the petitioner, which is nothing but pure abuse of process of law.

6. In the judgment of the Hon'ble Apex Court in **Mohammed Ibrahim and others Vs. State of Bihar and another** reported in 2009 (3) SCC (Cri) 929, it has been held as follows:

''8. This Court has time and again drawn attention to the growing tendency of the complainants attempting to give the cloak of a criminal offence to matters which are essentially



and purely civil in nature, obviously either to apply pressure on the accused, or out of enmity towards the accused, or to subject the accused to harassment. Criminal Courts should ensure that proceedings before it are not used for settling scores or to pressurise parties to settle civil disputes.''

7. Applying the principles laid down by our Hon'ble Apex Court in the abovesaid judgment into this case, this Criminal Original Petition is allowed. The proceedings in C.C.No.125 of 2012 on the file of the Judicial Magistrate Court, Alangudi, Pudukottai District, stands quashed in respect of the petitioner alone. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Alangudi,
Pudukottai.
2. The Inspector of Police,
District Crime Branch Police Station,
Pudukottai, Pudukottai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/s.S.Ravi, Advocate in SR. No.46416
SMN2
MK/SKN RSK/SAR-2/15.02.2018/3P/5C

CrI.O.P. (MD) No.5864 of 2013
06.02.2018