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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL.O.P.(MD)No.6703 of 2013

and

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

Soundravelan

... Petitioner/Accused No.7

Vs.

1. The Inspector of Police,
City Crime Branch,
Trichy City.

... Respondent No.1/
Defacto Complainant

2. N.A.Varadharajan,
Administrative Director,
Lavanya Property Developers Private Ltd.,
31/C8, III Cross Street(East),
Thillai Nagar,
Trichy - 18.

... Respondent No.2/
Dejure Complainant

Prayer: Petition is filed under Section 482 of Cr.P.C., to call for the entire records connected with the First Information Report in Crime No.4 of 2012 against the petitioner/accused No.7 on the file of the first respondent and quash the entire proceedings.

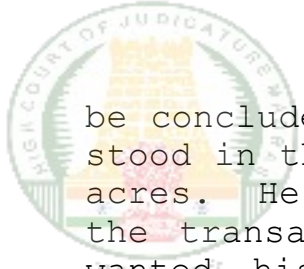
For Petitioner	: Mr.Parthasarathi, for Mr.T.Vadivelan
For R-1	: Mr.A.Robinson, Government Advocate(Crl. Side).
For R-2	: Mr.K.Sivabalan

ORDER

This Criminal Original petition has been filed for quashing the First Information Report in Crime No.4 of 2012 against the petitioner/accused No.7 on the file of the first respondent.

2. The petitioner is figuring as accused No.7 in Crime No.4 of 2012 registered on the file of the first respondent for the offences under Sections 147, 323, 120(b), 406, 420 and 506(i) of I.P.C.

<https://hcservices.courts.gov.in/hcservices> 3. The second respondent is the defacto complainant. The defacto complainant is a property developer. He wanted to purchase a land near Trichy. He was told that the transaction can



be concluded through the first accused late M.Natarajan. The land stood in the name of one V.S.Suresh and measured an extent of 7.12 acres. He paid a sum of Rs.1,60,00,000/- as advance amount. But, the transaction did not get concluded. The defacto complainant wanted his money back. But, the principal accused, namely, accused Nos.1 to 3 threatened the defacto complainant of serious consequences, if he persisted with his demand for return of the advance amount. Hence, the present First Information Report came to be registered. The petitioner is shown as 7th accused.

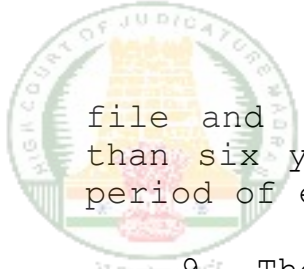
4. This Court went through the contents of the First Information Report. It is seen that on instructions of the second accused, the defacto complainant had paid a sum of Rs.10,00,000/- in two installments to the petitioner herein. The role of the petitioner herein was that he acted as a conduit for receiving payment from the defacto complainant on behalf of the principal accused. Except this, the petitioner, even according to the second accused, did not play any other role. The petitioner herein did not hold out any representation to the second accused. Therefore, the petitioner cannot be fastened with the charge under Section 420 of I.P.C.

5. The learned counsel for the petitioner submitted that the petitioner is practising as Auditor. From the materials enclosed in the typed set, it is seen that the petitioner had arranged loan for the main accused from a third party. Since there was some balance amount payable to the third party, the main accused prevailed upon the petitioner to collect the sum of Rs.10,00,000/- from the second respondent herein so as to settle the said liability.

6. Though this Court is inclined to quash the impugned proceedings as far as the petitioner is concerned, this Court called upon the petitioner to give an undertaking that the petitioner shall appear as witness in the present case and testify the facts that are within his knowledge. The learned counsel for the petitioner submitted that the petitioner is willing to testify as a witness in support of the prosecution. This Court is of the clear opinion is that the second respondent is a victim at the hands of the principal accused. No doubt, the main accused/first accused is now no more. But accused Nos.2 and 3 are very much available to face the trial. Recording the undertaking of the petitioner, the impugned First Information Report is quashed in so far as the petitioner is concerned.

7. The learned Government Advocate(Criminal Side) submitted that the investigation is almost over.

8. The first respondent is directed to file the final report before the jurisdictional Court within a period of four weeks. The learned Magistrate concerned shall take the final report on



file and assign C.C.No., immediately. Since the case is more than six years old, the entire trial shall be concluded within a period of eight months from the date of taking on file.

9. The Criminal Original petition is allowed, accordingly. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
City Crime Branch,
Trichy City.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.K.Sivabalan, Advocate Sr.No.64851

PMU

VB/SKN/RSK/SAR2/06.06.2018/3P/4C

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