

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 11.01.2019
CORAM:
THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
Crl.O.P.No.756 of 2019
and
Crl.M.P.Nos.494 and 495 of 2019

Thanikachalam

.. Petitioner/3rd Accused

Vs.

1.State rep by

The Inspector of Police,
CCB Central Crime Branch,
Chennai.

..R1/Complainant

2.M.Anandhan

..Respondent No.2/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records in C.C. No.6626 of 2016 on the file of the learned Chief Metropolitan Magistrate, Egmore at Allikulam and quash the same.

For Petitioner : Mr.V.Krishanmoorthy

For Respondents: Mr.M.Mohamed Riyaz
Additional Public Prosecutor for R1

ORDER

This petition has been filed seeking to quash the proceedings in C.C. No.6626 of 2016, pending on the file of the Chief Metropolitan Magistrate Court, Egmore at Allikulam.

2.This petitioner is shown as A3 in the final report. The final report has been filed as against three accused persons for an offence under Sections 419, 465, 467, 468, 471 r/w Sections 34 and 511 of I.P.C. It is also brought to the notice of this Court that the charges have also been framed on 30.01.2018, for the above said offence.

3.The learned counsel for the petitioner submitted that the entire allegations have been made only against A1, A2 and this petitioner, who was only the Manager working with A2, had only carried out the instructions given by A2 in his capacity as employer. That apart, the learned counsel for the petitioner submitted that the only allegation that has been made against this petitioner is that he had only collected the copy of the documents from the de-facto complainant. Therefore, the learned counsel for the petitioner submitted that even if the allegations made in the final report is taken as it is along

with the statement given by the witnesses, no offence has been made out as against this petitioner.

4.The learned Additional Public Prosecutor would submit that there are sufficient materials as against this petitioner for the offence of criminal conspiracy and therefore this Court should not interfere with the proceedings at this stage.

5.This Court has carefully considered the submissions made on either side. The de-facto complainant has consistently stated right from the stage of complaint that this petitioner had collected the copy of the documents from him and only thereafter the forged documents were created by A1 and A2. The submission of the learned counsel for the petitioner is that the documents were collected by this petitioner only because he was so directed by his employer A2 and this petitioner was not even aware as to why he was asked to collect the documents. The said issue cannot be gone into at this stage and the same will get unravelled only in the course of trial. For the purpose of framing charges, a strong suspicion is enough based on the materials available on record.

6.It is left open to the petitioner to raise all the grounds before the Court below in the course of the trial and the Court below shall consider the same on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings at this stage.

7.The learned counsel for the petitioner submitted that the petitioner is aged more than 65 years and therefore his presence may be dispensed with before the Court below. Taking into consideration the facts and circumstances of the case, the presence of the petitioner is dispensed with and the petitioner shall be represented by a counsel. The petitioner shall be present before the Court below at the time of questioning under Section 313 of Cr.P.C. and at the time passing of the judgment. The counsel representing the petitioner shall cross examine the witnesses on the same day when they are examined in chief.

8.This Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in C.C. No.6626 of 2016, within a period of four months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ia/vsg1

To :

1.The Chief Metropolitan Magistrate,
Egmore at Allikulam.

2.The Inspector of Police,
CCB Central Crime Branch,
Chennai.

3.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.Krishnamoorthy, Advocate, S.R.No.3153

CrI.O.P.No.756 of 2019

EV(CO)

rrs 21/01/2019



WEB COPY