

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2019

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.6683 of 2013

Kannan Sugars Pvt. Ltd.,
Represented by Director,
P.N.Subbaian,
Kanchipuram.

... Petitioner

Versus

1.The Superintendent of Police,
Kanchipuram District,
Kancheepuram.

2.The Deputy Superintendent of Police,
Anti Land Grabbing Cell,
District Crime Branch,
Kancheepuram.

3.The Inspector of Police,
Anti Land Grabbing Cell,
District Crime Branch Police,
Kanchipuram.

4.Padmini Apparao

... Respondents

[Impleaded proposed respondent as 4th
respondent by the order of this Court
made in M.P.No.1 of 2015 in
Crl.O.P.No.6683 of 2013 dated
26.03.2015.]

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the 2nd respondent to return back the documents received by him on 22.05.2012 from the Company Law Board, pursuant to the order dated 30.03.2012 passed by the High Court in Crl.O.P.No.7872 of 2012 to the Company Law Board for further enquiry.

For Petitioner :	No Appearance
For R1 to R3 :	M/s.S.Thankira Government Advocate [Crl. Side]
For R4 :	Mr.M.Guruprasad

ORDER

This Criminal Original Petition has been filed to direct the 2nd respondent to return back the documents received by him on 22.05.2012 from the Company Law Board, pursuant to the order dated 30.03.2012 in Crl.O.P.No.7872 of 2012 passed by this Court to the Company Law Board for further enquiry.

2.The petitioner is the 5th accused in Crime No.127 of 2011, which came to be registered by the 3rd respondent based on the complaint of one A.B.Apparao, who was arrayed as 4th respondent. After his death his wife Padmini Apparao has been implicated as 4th respondent/defacto complainant.

3.When the matter is taken up on 26.07.2019, there was no representation for the petitioner and the matter is posted under the caption for dismissal on 22.08.2019. Even today ie., 22.08.2019, there is no representation on behalf of the petitioner. Since the case is pending from the year 2011 adjourning the case for appearance of the petitioner would serve no purpose. Hence, this Court propose to proceed with the case on the basis of the materials available and on the submissions of the learned counsel appearing for the respondents and dispose it on merits.

4.The case is that M/s.Kannan Sugars Private Limited was registered under the Provisions of the Companies Act, 1956 on 24.05.1968. Initially, they were five promoters and were allotted shares and the same would find place in Articles and Memorandum of Association and in the registers maintained in the registers of company. The said company owned 13.34 acres of land at Kancheepuram and did not follow the monthly activities. The defacto complainant came to know that the petitioner and others have forged the signatures of the Directors of the company in the Share Certificate, Minutes Book, Statutory Combined Register and other records. By using the same, the accused transferred the shares and took the control of the said company and its properties and the land belongs to the company had been sold and came into the possession of the petitioner and others.

5.The defacto complainant filed Company Petition in C.P.No.22 of 2009 before the Company Law Board Chennai Bench, Chennai, wherein the petitioner and other accused filed the documents to prove their right and claim over the property. In order to secure the fraudulent and fictitious document submitted by the petitioner and others to prove their right and claim over the property on the file of the Company Law Board Chennai Bench, Chennai in C.P.No.22 of 2009, the defacto complainant filed Crl.O.P.No.7872 of 2012 before this Court. This Court by order dated 30.03.2012 directed the 3rd respondent to secure the

fraudulent and fictitious documents and send the same for comparison for the age of the ink, age of the document and also the hand writing of all the documents with the help of the admitted contemporary documents to the Government Forensic Lab, Pune or Hyderabad and to continue the investigation in Crime No.127 of 2011 and file the final report, within a period of six weeks.

6.The 3rd respondent Police after obtaining the said documents sent it to Forensic study and on completion of investigation in Crime No.127 of 2011, filed a final report in C.C.No.228 of 2014, which is now pending on the file of the Judicial Magistrate No.II, Kancheepuram. Therefore, the petitioner filed this petition seeking to return the said documents secured by the 3rd respondent Police based on the order passed by this Court in Crl.O.P.No.7872 of 2014.

7.The learned counsel for the defacto complainant strongly opposed this Criminal Original Petition on the ground that the documents secured and subjected to Forensic Study are all vital documents, which would prove the charges of forgery, conspiracy and creation of forged documents. Hence, those documents could not be returned and it is very much needed to conclude the trial in C.C.No.228 of 2014. Therefore, he prayed for dismissal of this Criminal Original Petition.

8.It is also brought to the notice of this Court that the petitioner and the other accused filed Crl.O.P.Nos.25796, 31771 and 31275 of 2014 to quash the proceedings in C.C.No.229 of 2014. Since the defacto complainant was aggrieved in the manner of investigation conducted by the 3rd respondent, inasmuch as they had not examined one P.S.Venkatachalam. Therefore, he has filed Crl.M.P.No.2842 of 2014 in C.C.No.229 of 2014 for further investigation. This Court by order dated 08.07.2015, directed the Deputy Superintendent of Police to record the statements of P.S.Venkatachalam and others and directed the petitioner and other accused to appear before the trial Court to furnish bond under Section 88 of Cr.P.C with two sureties each for Rs.10,000/-.

9.It is also submitted that after dismissing of the quash petition in Crl.O.P.Nos.25796, 31771 and 31275 of 2014, the accused in Crl.O.P.No.25796 of 2014 filed discharge petition before the learned Judicial Magistrate No.II, Kancheepuram and they were discharged from the case. Against which, an appeal has been filed by the defacto complainant, which is pending on the file of Principal District and Sessions Court, Kancheepuram in C.A.No.22 of 2018. He further submitted that the accused are filing one petition or other to stall the proceedings of the case, despite Court's specific direction to complete the trial within a stipulated period.

10.The learned Government Advocate [Crl. Side] appearing on behalf of the respondents 1 to 3 would submit that in this case the respondent Police completed their investigation and filed the final report in C.C.No.228 of 2014 on the file of the Judicial Magistrate Court No.II, Kancheepuram. Subsequent to the order of this Court in Crl.O.P.Nos.25796, 31771 and 31275 of 2014, completed the investigation and filed an amended charge sheet in C.C.No.228 of 2014. The accused in Crl.O.P.No.25796 of 2014 have already been discharged by the trial Court. Against which, appeal in C.A.No.22 of 2018 has been filed by the defacto complainant, which is pending on the file of Principal District and Sessions Court, Kancheepuram. Now, A1 and A3 also filed discharge petition, which is pending trial before the Judicial Magistrate No.II, Kancheepuram and the case is posted on 28.08.2019.

11.Considering the submissions and on perusal of the materials this Court finds that the petition is not maintainable on the ground that the documents sought for by the petitioner is an essential one for the trial in C.C.No.228 of 2014. If the petitioner is in need of such document, he can seek a certified copy of the documents from the Judicial Magistrate Court No.II, Kancheepuram. It is seen that the petitioner and other accused have been successfully dragging the proceedings from the year 2011 by filing one petition or other.

12.This Criminal Original Petition is disposed of with the following directions:-

(i) This Court directs the learned District and Sessions Judge to dispose of the case in C.A.No.22 of 2018 within a period of two months from the date of receipt of a copy of this order and also take into consideration of the order passed by this Court dated 08.07.2015 in Crl.O.P.Nos.25796, 31771 and 31275 of 2014.

(ii) The learned Judicial Magistrate No.II, Kancheepuram is directed to dispose the discharge petition filed by A1 and A3 on 28.08.2019 or on the next hearing date without giving any further adjournments.

(iii) On completion of the above said proceedings, the learned Judicial Magistrate No.II, Kancheepuram is directed to complete the trial in C.C.No.228 of 2014 within a period of six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal District and Sessions Court,
Kancheepuram.

2.The Judicial Magistrate No.II,
Kancheepuram.

3.The Superintendent of Police,
Kanchipuram District,
Kancheepuram.

4.The Deputy Superintendent of Police,
Anti Land Grabbing Cell,
District Crime Branch,
Kancheepuram.

5.The Inspector of Police,
Anti Land Grabbing Cell,
District Crime Branch Police,
Kanchipuram.

6.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.Guruprasad, Advocate, S.R.No. 72402

SV(CO)
GN(26/08/2019)

CRL.O.P.No.6683 of 2013

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