

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.3341 of 2014
and
M.P.No.1 of 2014

Amaravathy

...Petitioner

Vs.

1. State by,
The Inspector of Police,
Udumalpet Police Station,
Udumalpet,
Tiruppur District.

2. V.R.Velusamy,
21/1, Babukhan Street,
Udumalpet,
Tiruppur District.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records of the first respondent and quash the final report made in C.C.No.264 of 2013 pending on the file of the learned Judicial Magistrate No.I, Udumalpet.

For Petitioner : Mr.N.Umapathi

For Respondents : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor,
for R1
No Appearance, for R2

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ORDER

This Criminal Original Petition is filed to quash the proceedings in C.C.No.264 of 2013 pending on the file of the learned Judicial Magistrate No.I, Udumalpet.

2. The learned counsel for the petitioner would submit that the petitioner is arrayed as second accused in C.C.No.264 of 2013. She has nothing to do with the matter as alleged by the prosecution. Further, the learned counsel submitted that even according to the case of the prosecution, the first accused only entered into an sale agreement with the de-facto complainant and received a sum of Rs.17,00,000/-. The petitioner was neither a party nor witness to the sale agreement. Further, she did not receive any share from the first accused, and she has been falsely implicated in the case. Therefore, the learned counsel sought for quashing the entire proceedings.

3. Per contra, the learned Additional Public Prosecutor submitted that in the case on hand, the petitioner is arrayed as second accused and her brother is arrayed as first accused. The case of the prosecution is that the petitioner and her brother received a sum of Rs.17,00,000/- for selling the petrol bunk, which was running under the name and style of M/s.Radhakrishnan Petrol Oil Bunk. The first accused approached the defacto complainant to sell the petrol bunk for a sum of Rs.20,00,000/-. In turn, they received a sum of Rs.17,00,000/- and thereafter, failed to change the licence in favour of the defacto complainant. Hence, the complaint. The petitioner and her brother, as legal heir of their father received a sum of Rs.17,00,000/- and shared equally. Therefore, the learned Additional Public Prosecutor vehemently opposed for quashing the entire proceedings.

4. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the first respondent.

5. There are two accused, in which, the petitioner is arrayed as second accused. Though the first accused only entered into the sale agreement with the de-facto complainant, the petitioner as the sister of the first accused, she is also having a share in the petrol bunk. Further, it is seen from the statement recorded from the complainant and other witnesses that there are categorical averments to implicate the petitioner. Therefore, there are evidences and materials to connect the petitioner in all the charges as submitted by the prosecutor. However, the points raised by the petitioner involves question of facts. Therefore, it has to be established only before the Trial Court. Hence, this Court is not inclined to entertain the Petition. Accordingly, the Criminal Original Petition is dismissed. However, petitioner is at liberty to raise all the points before the Trial Court. The personal appearance of the petitioner is dispensed with, however, the petitioner shall be represented by a counsel by filing appropriate application and the petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under

313 Cr.P.C and at the time of passing of the judgment.
Consequently, connected miscellaneous petition is closed.

pvs

Assistant Registrar

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Sub Assistant Registrar

To

1. The Judicial Magistrate No.I,
Udumalpet

2.The Inspector of Police,
Udumalpet Police Station,
Udumalpet,
Tiruppur District.

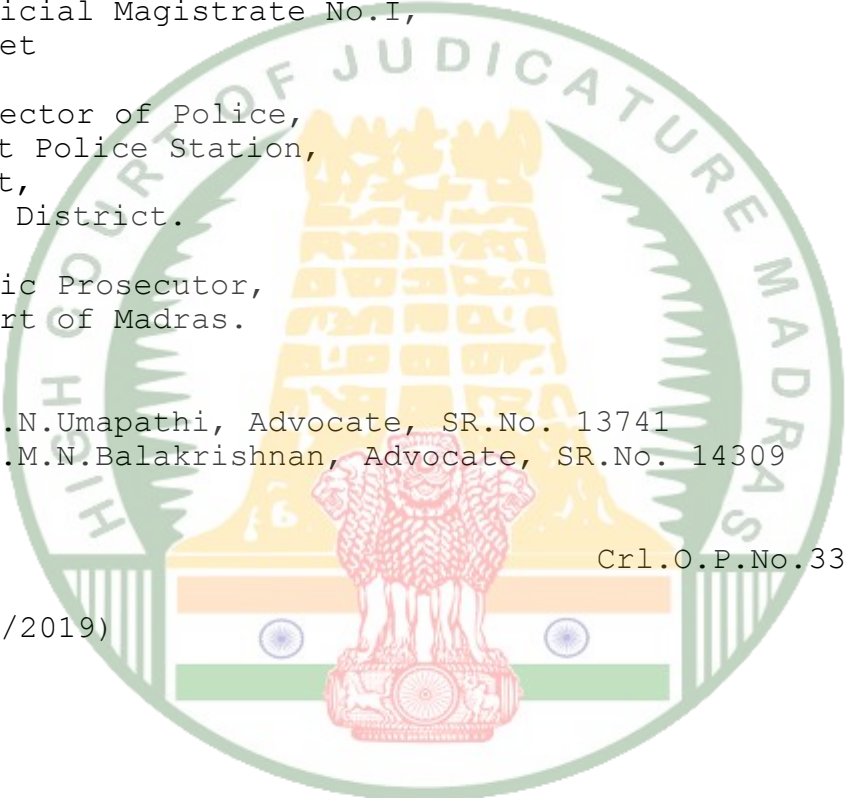
3.The Public Prosecutor,
High Court of Madras.

+lcc to Mr.N.Umapathi, Advocate, SR.No. 13741

+lcc to Mr.M.N.Balakrishnan, Advocate, SR.No. 14309

CrI.O.P.No.3341 of 2014

Kak(02/05/2019)

The seal of the High Court of Madras is a circular emblem. It features a central golden temple gopuram (tower) with a red lion standing in front of it. The lion is facing forward and is flanked by two smaller lions. Below the lion is a red wheel. The entire emblem is set against a background of horizontal stripes in orange, white, and green. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a circular border around the emblem. Below the emblem, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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