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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2019

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THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

CrI.O.P.No.25081 of 2019

and

CrI.M.P.No.13377 of 2019

R.Lingathirumaran

... Petitioner

Vs.

1.State rep. by

The Additional Superintend of Police,
Vigilance and Anti - Corruption, CC-V,
Chennai.

2.T.Kannan

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for entire records pertaining to Spl.C.C.No.8 of 2019 dated 01.10.2018 and subsequently registered on 06.05.2019 pending on the file of the learned Chief Judicial Magistrate cum Special Judge for cases under P.C.Act, Tiruvallur and quash the same in so far as the petitioner/ Accused No.1 is concerned.

For Petitioner : Mr.A.V.Somasundaram

For Respondents : Mr.C.Iyyapparaj,
Additional Public Prosecutor for R1

O R D E R

This Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code, to call for entire records pertaining to Spl.C.C.No.8 of 2019 dated 01.10.2018 and subsequently registered on 06.05.2019 pending on the file of the learned Chief Judicial Magistrate cum Special Judge for cases under P.C.Act, Tiruvallur and quash the same in so far as the petitioner/ Accused No.1 is concerned.



2. The petitioner/ A1 has filed this petition under Section 482 of the Code of Criminal Procedure challenging the Spl.C.C.No.8 of 2019 registered under Sections 7 and 13(2) r/w. 13(1)(d) of Prevention of Corruption Act, 1988 and Sections 294(b), 323, 364(A), 368 and 386 r/w. 109 IPC pending on the file of the learned Judicial Magistrate cum Special Judge for cases under P.C.Act, Tiruvallur on the basis of the final report filed by the 1st respondent on 01.10.2018 against the petitioner on the basis of the complaint filed by T.Kannan, 2nd respondent.

3. The case of the prosecution is that the petitioner has demanded a bribe amount of Rs.1,50,000/- to do some favour in Crime No.132 of 2017 registered by A2, The Inspector of Police, M3-Puzhal Police Station, in which he was arraigned as 1st Accused under Sections 406, 420, 397 and 506(ii) IPC and the same was pending before the learned Judicial Magistrate, Thiruvottriyur.

4. Mr.A.V.Somasundaram, learned counsel appearing for the petitioner would submit that though the prosecution listed many number of witnesses, there is no witness to support the case of the prosecution. The list of witnesses viz., LW10, LW12, LW20 and LW21, in their statements did not involve the petitioner in the present case. In fact the defacto complainant kidnapped one Sureshbabu, LW20 and his family members and robbed a sum of Rs.18,00,000/-, for which the said Sureshbabu had given a complaint in Crime No.132 of 2017 and the same was registered by A2. Thereafter, A2 took up the investigation and their police officials recovered the robbed amount of Rs.10,00,000/- from one Bindhu and the other Rs.8,00,000/- were yet to be recovered from the accused person. In that process, the defacto complainant who is the accused therein registered a false complaint before the DVAC and thereafter DVAC without conducting any proper investigation, registered a case and filed charge sheet before the trial court. Even a perusal of the statement made by LW20 did not implicate the petitioner herein. Hence, this court has to quash the charge sheet in respect of A1/ petitioner.

5. Further the learned counsel appearing for the petitioner draw the attention of this court to the statements of LW10 Anand Kumar, LW12 Velan, LW20 R.Sureshbabu, who is the complainant in Crime No.132 of 2017 and LW21 Daisy Rani, who is the wife of Sureshbabu and submit that even a perusal of these statements would not make out a case against the petitioner herein, hence, this court may allow this Criminal Original Petition. In support of his contentions, the counsel would rely upon the decision of the Hon'ble Apex Court in Lalita Kumari Vs.



Government of U.P and others reported in AIR 2014 SC 187, wherein, in paragraph 111 it has been clearly held that while ensuring and protecting the rights of the accused and the complainant, a preliminary enquiry should be made time bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the general diary entry.

6. However, in the present case there is no preliminary enquiry conducted before registering the case and simply the petitioner has been roped as an accused along with other accused persons.

7. Per contra, learned Additional Public Prosecutor appearing for the State would submit that this court while dealing with a case under Section 482 of Cr.P.C, has to see whether any prima facie case made out based on the complaint made by one Kannan who is the defacto complainant. The said Kannan made allegation against the A1 and others that they have demanded Rs.1,50,000/- in order to favour him in Crime No.132 of 2017 which was registered by LW20 Sureshababu. Even on a bare perusal of the statements referred by the counsel for the petitioner, would indicate that the LW20 and LW21 had made a complaint against the Kannan/ defacto complainant in Crime No.132 of 2017, regarding the case of money transfer between them. For that purpose, the said Kannan had given a complaint against the officials stating that they had demanded bribe amount from him. In support of his contentions the learned Additional Public Prosecutor would rely upon the decisions of State of Haryana Vs. Bhajan Lal reported in AIR 1992 Supreme Court 604 and prays to dismiss this Criminal Original Petition.

8. On a perusal of records reveal that the petitioner was implicated as A1 for the offence under Sections 7 and 13(2) r/w.13(1)(d) of the Prevention of Corruption Act, 1988 and Sections 294(b), 323, 364(A), 368 and 386 r/w. 109 IPC and he demanded bribe from the defacto complainant and the case was registered on the basis of LW20-Suresh Babu's complaint and there was allegation against the second respondent/ defacto complainant that the defacto complainant kidnapped LW20-Suresh Babu and robbed a sum of Rs.20 Lakhs in which Rs.10 Lakhs was collected by the accused from the defacto complainant. All those evidence disclose that there is prima facie case to proceed against the petitioner and rendering any opinion on the merits of the case would adversely affect the case of the petitioner during the trial and it will influence the trial court. Hence, this court refrains from expressing any opinion on the merits of the case and finds prima facie case disclosed against the petitioner. In view of the above, I am not inclined to



interfere with the charge sheet. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is also closed.

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Sd/-
Assistant Registrar(J)

//True copy//

Sub Assistant Registrar

dsa

To

- 1.The Chief Judicial Magistrate and
Special Judge, Thiruvallur
- 2.The Additional Superintend of Police,
Vigilance and Anti - Corruption, CC-V,
Chennai.
- 3.The Section Officer,
Criminal Records,
High Court of Madras, Chennai.

+1cc to Mr.A.V.Somasundaram, Advocate SR.No.103024

Cr1.O.P.No.25081 of 2019
and
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GMV(07/01/2020)