



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.10.2019
CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

CRL.O.P.(MD)No.7690 of 2015
and M.P.(MD)Nos.1 and 2 of 2015

Shanmuga Kani

... Petitioner/Accused No.3

Vs.

1. The State represented by,
The Inspector of Police,
Vilakkuthoon Police Station(Crime),
Madurai City. (Crime No.544 of 2013) ... Respondent/Complainant
2. Ramesh Kumar,
Proprietor,
M/s.R.S.R.Meenakshi Traders,
24, Swamy Sannathi Street,
Madurai - 1. ... Respondent/Defacto Complainant

PRAYER : Criminal Original petition is filed under Section 482 of Cr.P.C., to call for the entire records pertaining to the case in C.C.No.10 of 2015 on the file of the learned Judicial Magistrate No.I, Madurai, Madurai District and quash the same.

For Petitioner : Mr.R.Anand
For R-1 : Mr.A.Robinson,
Government Advocate(Crl. Side).
For R-2 : Mr.M.Saravana Kumar

O R D E R

The petitioner is figuring as the third accused in C.C. No.10 of 2015 on the file of the Judicial Magistrate No.I, Madurai.

2. The second respondent herein is the defacto complainant. The specific case of the second respondent is that through a broker, by name, Parasuram Gupta, he sold certain quantity of pulses to accused Nos.1 and 2. His further case is that accused Nos.1 and 2 have not settled the dues payable to him. However, accused No.3 has also been roped in. Crime No.544 of 2013 was registered in Vilakkuthoon police station against all the three persons for the offences under Sections 120(B), 406, 420, 468 and 506(i) IPC. After conducting the investigation, final report came to be filed. Cognizance of the offence was taken and the case was taken on file in C.C.No.10 of 2015 by the Judicial Magistrate No.I, Madurai. To quash the same, this criminal original petition came to be filed.



3. Heard the learned counsel on either side.

4. The allegations have been made only against accused Nos.1 and 2. It is not the case of the defacto complainant that the petitioner herein had also joined in the purchase with the said accused. Even according to the defacto complainant, the petitioner is only known to accused Nos.1 and 2. It is possible that the petitioner herein had made purchases from accused Nos.1 and 2. But then, there is no privity of contract between the defacto complainant and the petitioner. The second respondent will have to necessarily pursue his prosecution only against accused Nos.1 and 2. Roping in the petitioner herein is absolutely not warranted.

5. Continuance of the impugned prosecution would only amount to abuse of legal process and quashing the same as far as the petitioner is concerned would serve the ends of justice. It is made clear that accused Nos.1 and 2 will not be entitled to take advantage of this order.

6. The impugned prosecution stands quashed as far as the petitioner is concerned. The criminal original petition stands allowed, on these terms. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate No.I,
Madurai, Madurai District.
2. The Inspector of Police,
Vilakkuthoon Police Station(Crime), Madurai City.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
4. The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai.

CRL.O.P. (MD)No.7690 of 2015
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