IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2020

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CRL.O.P.No.16075 of 2013
and
M.P.No.1 of 2013

W.N.Srinivas Prasad, M/A 40 years,
S/o W.V.Krishnavya,
Saai Krishna Vihaar,
Plot No.8, Balaji Nagar Extension,
Korattur P.S.,
Chennai - 600 076. ....Petitioner/Accused

Vs

1.The State of Tamil Nadu,
Rep. by its Inspector of Police,
V5, Thirumangalam Crime Police Station,
Chennai.
(Crime No.324 of 2012)

2.R.Nagarathinam, M/A 87 years,
S/o.M.K.V.Ram,
No.169/5, Jawahar Colony,
4th Avenue, Anna Nagar,
Chennai - 600 040. .... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code to call for the records in C.C.No.983 of 2013 on the file of the learned X Metropolitan Magistrate, Egmore, Chennai and quash the same against the petitioner.

For Petitioner : Mr.R.Shanmugasundaram, Senior Counsel for Mr.V.P.Raja.

For Respondents: Mr.R.Ravichandran, Government Advocate (Crl.Side) for R1.

R2 - No appearance.

ORDER

The first respondent police has registered a case against the petitioner herein and others based on the complaint given by the second respondent in Crime No.324 of 2012 for the offence under Sections 406, 420, 467, 468, 471 and 506 (ii) of Indian Penal Code alleging that the petitioner had deceived him by making himself as nominee for the deposits made by the wife defacto complainant in her accounts in State Bank of India, Ayanavaram Branch and taken away the gold jewels and also cheated a further sum of Rs.2 lakhs which has been directed by the deceased Saroja, wife of the defacto complainant to deposit in the name of her servant. Therefore, he had lodged the complaint. The first respondent investigated the case and filed a charge sheet before the X Metropolitan Magistrate, Egmore. The Charge sheet was also taken on file by the learned Magistrate in C.C.No.923 of 2013 wherein the petitioner was arrayed as A1 and the same is pending. After receipt of the summons, the petitioner filed this present petition to quash the case against him in C.C.No.923 of 2013.

2.The learned Counsel for the petitioner submitted that the petitioner was appointed as nominee for the deposits made by the defacto complainant's wife viz., Saroja before the bank. As a nominee, he has a right and is entitled to receive the money after the death of the depositor and he has no role in this case and therefore, no complaint can be registered against the nominee as he is only a trustee for the deposit made by the depositor. After the death of the depositor, nominee can receive the money from the bank and can disperse the amounts to the Legal Representatives of the depositor and hence, the role of the nominee is limited and therefore, the nominee cannot be prosecuted and seeks to quash the case against the petitioner.

3.However, the learned Government Advocate (Crl.Side) would contend that defacto complainant / second respondent is the husband of the deceased Saroja and is aged about 87 years. He has purchased the property in the name of his wife and also subsequently, deposited the amount in bank for which he was the nominee. Taking advantage of the old age and misunderstandings between husband and wife, he misguided the wife of the defacto complainant and withdraw the amount from the bank in which the defacto complainant was nominee and redeposited the amount in her account in other bank and shown him as nominee. Further, with the connivance of A3, the petitioner taken away all the properties and gold jewels and cheated a sum of Rs.2 Lakhs which has been directed by the deceased saroja to deposit in the account of her servant. When there is a prima facie case and when the witnesses have spoken about the involvement of the accused, it is a matter for trial and therefore, they have to prove their innocence before the Court of law and hence, sought for dismissal of the petition.

4.Heard the parties and perused the records.

5.Admittedly the defacto complainant and his deceased wife were living separately at the time of the death of Saroja and the Listed Witness No.3 viz, Geetha who was a servant to both the deceased Saroja and the defacto complainant / second respondent, has fairly spoken about the involvement of the petitioner in the statement given under Section 161 of Criminal Procedure Code.

6.Therefore, there were allegations against the petitioner which were also spoken by the witnesses and the first respondent has also investigated the matter and filed charge sheet and the same was taken cognizance by the learned Magistrate in C.C.No.983 of 2013 and is pending before X Metropolitan Magistrate, Egmore. Whether the petitioner is acted as nominee or as alleged by the prosecution, he has cheated the deceased Saroja and stolen the gold jewels with the connivance of other accused, has to be seen only in the trial. Therefore, this case is not a fit case to quash. Hence, this Court is not inclined to quash the case against the petitioner.

7.In the result, this Criminal Original Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. However, taking into consideration of the fact that the case is pending from the year 2013, the learned X Metropolitan Magistrate, Egmore is directed to dispose of the case in C.C.No.923 of 2013 within a period of four months from the date of receipt of the copy of this order.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The State of Tamil Nadu,
Rep. by its Inspector of Police,
V5, Thirumangalam Crime Police Station,
Chennai.
(Crime No.324 of 2012)

2.The X Metropolitan Magistrate,
Egmore,
Chennai.

+1cc to Mr.V.P.Raju, Advocate SR.6720
+1cc to Mr.M.Purushothaman, Advocate SR.6306

CRL.O.P.No.16075 of 2013
and
M.P.No.1 of 2013

EV(CO)
CB(20/02/2020)