



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.02.2020

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.12951 of 2016

and

Crl.M.P. (MD)Nos.6091 and 6092 of 2016

1.Jeganathan
2.Thirumurugan
3.Thirunarayanamoorthi
4.Gunasekaran
5.Balakishore
6.Yogesh

... Petitioners/Accused Nos.2 to 7

Vs.

The Inspector of Police,
Thiruthangal Police Station,
Sivakasai,
Virudhunagar District.

... Respondent/Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to the proceedings in C.C.No.93 of 2015 on the file of the learned Judicial Magistrate, Sivakasi and quash the same.

For Petitioners : Mr.M.Vivekanandan

For Respondent : Mr.A.Robinson

Government Advocate (Crl. Side)

O R D E R

The petitioners are facing trial in C.C.No.93 of 2015 on the file of the learned Judicial Magistrate, Sivakasi for the offences under Sections 120(b) and 420 r/w. 511 of I.P.C.

2. The case of the prosecution is that on 30.04.2014 at about 06.00 p.m., the police party noticed the accused were sitting in two cars bearing Registration Nos.TN 01 AS 6005 and TN 05 AT 8038 and conspiring to sell ordinary bronze vessel as iridium mixed bronze vessel to cheat the general public. The FIR was registered at the instance of the Inspector of Police, Thiruthangal Police Station. In fact he is the informant as well as the registrant of the FIR. He also conducted the investigation and filed the final report before the Jurisdictional Magistrate. The learned Judicial Magistrate, Sivakasi took cognizance of the offences under Sections 120(b) and



420 r/w. 511 of I.P.C. In this case there are totally 11 witnesses.

3. On carefully going through the statement recorded under Section 161 of Cr.P.C., it is seen that all the witnesses have spoken about the preparation made by the accused herein. The witnesses would in unison state that the accused were preparing to pass off the ordinary bronze vessel as iridium mixed utensil.

4. There is considerable distinction between preparation and attempt to commit an offence. In this case even if the entire prosecution is taken to be true, it will only amount for preparation to commit an offence. The petitioners have not done any act for committing the crime as such.

5. The first petitioner is said to have had claimed that he knows how to cheat the general public by passing off an ordinary bronze utensil as a iridium mixed utensil by attracting rice. This can at best be considered as a big swagger by a petty criminal. This will by itself not amount to commission of an offence to attempt to commit a crime. Even if the entire prosecution case is taken as true, no case is made out against the petitioners. The elementary ingredients of the offences are absent. The impugned prosecution is quashed and the criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar(CS)

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To

1.The Judicial Magistrate, Sivakasi.

2.The Inspector of Police,
Thiruthangal Police Station,
Sivakasai, Virudhunagar District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

CrI.O.P(MD)No.12951 of 2016
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