



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.22826 of 2016

and

Crl.M.P. (MD)Nos.11953 and 11954 of 2016

V.M.Sundar

...Petitioner/Accused No.3

-VS-

1.The Inspector of Police,
Gangaikondan Police Station,
Tirunelveli,
(Crime No.74 of 2014)

...Respondent/Complainant

2.The Sub Inspector of Police,
Gangaikondan police station,
Tirunelveli.

...Respondent/DefactoComplainant

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code to call for the records relating to the case in P.R.C.No.18 of 2016 on the file of the Judicial Magistrate No.III, Tirunelveli and quash the same as against the petitioner by allowing this Criminal Original Petition.

For Petitioners : Mr.P.Samuel Gunasingh

For Respondents : Mr.A.Robinson
Government Advocate (Crl.side)

O R D E R

This Criminal Original Petition has been filed to quash the impugned proceedings as far as the petitioner is concerned. The petitioner is shown as A3 in P.R.C.No.18 of 2016 on the file of the Judicial Magistrate No.III, Tirunelveli. Crime No.74 of 2014 was registered at the instance of the second respondent for the offences under Section 379 (Sand) r/w 120(b) and 307 of IPC. After registration of case, the petitioner filed Crl.O.P.(MD)No.12365 of 2014 before this Court, challenging the very registration of the case against him. A learned Judge of this Court by order dated 03.07.2014 granted an interim order as regards the filing of final report. The Interim order was granted on 03.07.2014. The case was ultimately disposed of only on 27.02.2018. But in the meanwhile, the first respondent went ahead by filing of the final report and



that the same was also taken on file by the jurisdictional Magistrate.

2.The learned counsel for the petitioner submitted that the petitioner was working as a project manager in Indian Oil Corporation Pvt.Ltd. The project was to set up a bottling plant. In this regard, Indian Oil Corporation had entered into a contract with M/s. Faptech Ltd. The contract was for supply of material, fabrication, erection and commissioning of 3X 600 MTS capacity mounded type LPG pressure vessels and 3 nos. (18M Dia X 10.5M Height) Fire Water tanks at Tirunelveli (Tamilnadu) Bottling Plant Project. The contractor in turn had entered into an arrangement with one Marimuthu for procuring sand. Thus, the petitioner had absolutely no role whatsoever. This Court must bear in mind that the petitioner was not a private individual but a responsible officer of a public sector undertaking.

3.The learned counsel for the petitioner would claim that there arose some kind of quarrel between the driver of the lorry transporting the sand and the local police. The altercation took place inside the premises of Indian Oil Corporation. The petitioner, as the project manager had told both the parties to leave the premises and have their fight outside. Feeling insulted, the first respondent had also falsely implicated the petitioner herein.

4.This in substance is the allegation of malafides made by the learned counsel for the petitioner. But then no official has been named in person. Therefore, I cannot examine the allegation regarding malafides. On carefully going through the materials on record, it is seen that the only allegation made against the petitioner is that he had suggested A1 and A2 to procure the sand illegally so that the profit can be shared. To substantiate the charge, the only material on the side of the prosecution is the confession of the co-accused. Other than the confession of the co-accused, there is no other material.

5.It is well settled that the confession of the co-accused by itself cannot be the basis for prosecution. It can only act as a corroborating material. In this case, there is no material other than the confession of the co-accused against the petitioner. On this sole ground, the impugned proceedings are quashed as far as the petitioner is concerned. Apart from that, final report was filed when the interim order passed by the learned Judge of this Court was very much holding the field.

6.Therefore, the impugned proceedings in P.R.C.No.18 of 2016 on the file of the Judicial Magistrate No.III, Tirunelveli, stand quashed and this Criminal Original Petition stands allowed, as far as the petitioner is concerned. It is made clear that the benefit of this order will not enure in favour of the remaining two accused.



They will have to independently face the proceedings. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

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Sub Assistant Registrar(CS)

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To

1.Judicial Magistrate No.III, Tirunelveli

2.The Inspector of Police, Gangaikondan Police Station,
Tirunelveli.

3.The Sub Inspector of Police,
Gangaikondan police station,Tirunelveli.

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

+1 CC to M/s.P.SAMUVEL GUNASINGH, Advocate (SR-7950[F] dated
24/02/2020)

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20.02.2020

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