



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.7488 Of 2016

and

CRL.M.P. (MD)Nos.3780 & 3781 of 2016 & 1567 of 2017

A.P.Ashok

... Petitioner/Accused No.2

Vs.

1. The Inspector of Police,
District Crime Branch,
Nagercoil,
Kanyakumari District,

... Respondent/Complainant

2. S. Merlin Joyal

... Respondent/Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records in pursuant to F.I.R in Crime No.79 of 2014 on the file of the 1st Respondent dated 15/11/2014 as far as the petitioners is concerned and quash the same.

For Petitioner	: Mr.A.Thiruvadikumar, for Mr.T.Selvakumaran.
For R-1	: Mr.A.Robinson, Government Advocate(Crl. Side)
For R-2	: Mr.S.Ramasamy

O R D E R

This criminal original petition has been filed for quashing the First Information Report in Crime No.79 of 2014 on the file of the District Crime Branch, Nagercoil, Kanyakumari District, for the offences under Sections 120(B) and 420 of I.P.C.

2. The second respondent is the defacto complainant. The petitioner is figuring as accused No.2. To quash the impugned First Information Report as far as the petitioner is concerned, this criminal original petition has been filed.



3. Heard the learned counsel on either side.

4. The case of the defacto complainant is that the defacto complainant remitted a sum of Rs.88 Lakhs in the bank account of accused No.1 Vivek. The amount was paid to him believing his promise and undertaking that if they would start an export and import business, the said sum of Rs.88 Lakhs would be returned to the defacto complainant. Hence, the impugned First Information Report came to be registered.

5. The learned counsel appearing for the second respondent stated that he has implicated the petitioner and few other persons who are the close relatives of the first accused. This petitioner is the brother-in-law of the first accused.

6. The learned counsel appearing for the defacto complainant submitted that in as much as the specific allegations have been made against the petitioner, this Court will not be justified in invoking the inherent powers to quash the impugned First Information Report.

7. I am not persuaded by the objections raised by the defacto complainant's counsel. The fact remains that amounts were remitted by the complainant directly in the account of the first accused. The petitioner herein is not a party to the said transaction. Of course the defacto complainant would claim that the petitioner was also present, when the transactions took place between him and the first accused. But the learned counsel appearing for the petitioner would point out that the petitioner is an employee under a Central Government undertaking and in order to put pressure to him, he has also been implicated.

8. The motive for implicating the petitioner appears to be highly probable. The dealing was only between the second respondent and the first accused. The petitioner has been implicated by making some general allegations and they are no credible materials against the petitioner herein.

9. Therefore, the very implication of the petitioner in the impugned First Information Report is an abuse of the legal process. The first respondent is directed to delete the petitioner from the array of parties in the impugned First Information Report which will be proceeded against the other accused to its logical conclusion.

10. In view of grant of interim order, investigation could not be taken up further. On allowing of the quash petition, the interim order of stay is also lifted. The first respondent is directed to conclude the investigation and file final report within a period of eight weeks from the date of receipt of a copy of this order.



11. With this direction, the criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CrI.side)

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Sub Assistant Registrar(CS)

To:

1. The Inspector of Police,
District Crime Branch,
Nagercoil,
Kanyakumari District,
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T.SELVAKUMARAN, Advocate (SR-5531[F] dated 11/02/2020)
+1 CC to M/s.S.RAMASAMY, Advocate (SR-5740[F] dated 11/02/2020)

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TE : 04/06/2020 : 3P/5C

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