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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.22946 OF 2017 &
CRL.M.P.NOS.13372 & 13373 OF 2017

Ahmed Gouse

...Petitioner

Vs

The State represented by
The Inspector of Police,
J.1 Saidapet Police Station,
Chennai - 600 015.
(Crime No.1694/2015)

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records and quash the proceedings pending in S.C.No.213 of 2017 on the file of the Principal Sessions Judge, Chennai for offences under sections 394 read with 397, 120[B] of IPC.

For petitioner : Mr.C.Arun Kumar

For Respondent : Mr.R.Kishore Kumar
Government Advocate [Criminal Side]

O R D E R

This petition has been filed to quash the proceedings against the petitioner pending in S.C.No.213 of 2017 on the file of the Principal Sessions Judge, Chennai for offences under sections 394 read with 397, 120[B] of IPC.

2. The contention of the learned counsel appearing for the petitioner is that the prosecution has completed investigation and filed charge sheet against the accused. It is his main contention that the name of the A1 is Gowthul Aglam. Whereas, the prosecution has shown him as Ahmed Gouse. Therefore, it is his contention that he cannot be directed to face charges when the prosecution has not identified the name of the person. Therefore, he is not actually involved in the offence and the entire prosecution case against the petitioner has to be quashed.



3. The offences alleged against the accused A1 to A11 are under section 341, 395, 397 of IPC on the allegation that the accused have waylaid the car of the defacto complainant and decamped with the jewels in the car. Immediately on hearing screaming of the persons travelling in the car, the public intercepted and one of the accused was caught red handed. On the basis of the confession given by the accused, the other accused have been arrested one by one. Therefore, even assuming that the name of the accused has been wrongly mentioned, that cannot be a ground to quash the entire proceedings.

4. It is to be noted that the accused has been arrested for the first time by the police based on the confession of the other accused. Therefore, the name of the accused has been given either by A1 himself or by other accused. It is to be noted that arrest of A1 not disputed. It is common knowledge that at the time of remand of accused to judicial custody identification marks would have noted in remand report and jail warrant etc. If A1 is so sure that he is not the person and never involved in the offence, he has to establish the same before the trial Court. Merely because the name of the accused has been wrongly mentioned in the charge sheet, that itself cannot be a ground to quash the entire case of the prosecution, in respect of which serious allegations have been made. Whether the accused is the real perpetrator of the crime or not involved in the occurrence can be seen after examination of the witnesses. Name of the accused can be corrected before trial Court. Therefore, this Court is of the view that it is premature to conclude that the police have implicated wrong person. Hence, this Court is not inclined to quash the proceedings against the petitioner.

5. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

vrc / kbs

To

1.The Principal Sessions Judge,
Chennai.

2.The IX Metropolitan Magistrate,
Saidapet, Chennai.



3.The Chief Metropolitan Magistrate,
Egmore, Chennai.

4.The Inspector of Police,
J.1 Saidapet Police Station,
Chennai - 600 015.

5.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.C.Arun Kumar, Advocate SR.No.63549

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PA(CO)
RVM(21/12/2021)