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Crl.O.P.(MD)No.19583 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P (MD) No.19583 of 2021

and

Crl.M.P. (MD) Nos.10935 & 10937 of 2021

Mahesh

... Petitioner / Accused No.1

Vs

1.State represented by

The Inspector of Police,
Anjugramam Police Station,
Nagercoil,

(In Crime No.538 of 2014) ... 1st Respondent / Complainant

2.Rajkumar

... 2nd Respondent /
Defacto complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records impugned charge sheet in C.C.No.57 of 2021 on the file of the learned Judicial Magistrate No.III, Nagercoil with regard to the petitioners alone and quash the same.

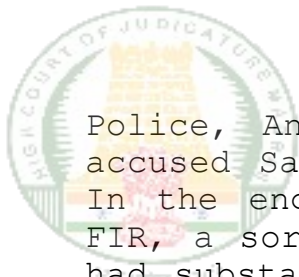
For Petitioner : M/s.APN Law Associates
For R1 : Mr.T.Senthil Kumar
Additional Public Prosecutor

ORDER

Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the first respondent. Considering the nature of relief to be granted, issuance of notice to the second respondent is dispensed with.

2. The petitioner is facing trial in C.C.No.57 of 2021 on the file of the Judicial Magistrate No.III, Nagercoil, for the offence under Section 420 of IPC.

3. A reading of the materials enclosed in the typed set of papers indicate that the defacto complainant and two others had paid a total sum of Rs.9,90,000/- to A2 and A3 for obtaining employment at Russia. It is stated that the victims were taken on a tourist visa to Russia. It appears that they could not continue to work there. So all of them returned to India. In this regard, Crime No.538 of 2014 was registered on the file of the Inspector of



Police, Anjugramam Police Station. Even in the FIR, the second accused Santhosh Kumar Naidu was described as leader of the gang. In the enquiry that was conducted before the registration of the FIR, a sort of resolution was arrived at and the petitioner herein had substantially fulfilled his part of the obligation. He remains to pay only a further sum of Rs.70,000/-.

4.The petitioner's counsel states that the petitioner is ready to pay the said amount of Rs.70,000/- as agreed by him before the enquiry officer.

5. I come to the conclusion that the petitioner was only a conduit. The money was paid by the victims directly to the account of A2 and A3.

6. Taking note of all these aspects namely the role played by the petitioner herein, his having returned a sum of Rs.2,60,000/- and his undertaking to pay the balance amount of Rs.70,000/- the court below can very well entertain the petitioner's application for treating himself as an approver. Therefore, even while dismissing this petition, I permit the petitioner to file an application under Section 306 of Cr.P.C for treating him as an approver and for being granted pardon.

7. It is not that the prosecution alone can file an application under Section 306 of Cr.P.C. The court also can take *suo motu* action. The accused can also request the Court to invoke its power under Section 306 of Cr.P.C. The petition to be filed by the petitioner shall be numbered. The court below will give a disposal in the light of the observations made herein.

8.This Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

rmi

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Judicial Magistrate No.III, Nagercoil.

2.The Inspector of Police,

Anjugramam Police Station,Nagercoil.

<https://hcservices.ecourts.gov.in/hcservices/>



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

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MGJ(21.01.2022) 3P 4C