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CRL.O.P.No.1613 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.1613 of 2016

and

Crl.M.P.Nos.759 of 2016 and 2405 of 2021

1.Radhakrishnan

2.Sivalingam

... Petitioners/A-10 & 11

Versus

The State rep. by
The Inspector of Police,
Indur Police Station,
Dharmapuri District.
(Crime No.73/2014)

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records relating to the complaint in C.C.No.69 of 2015 on the file of the Judicial Magistrate No.II, Dharmapuri and quash the same as far as the petitioners are concerned.

For Petitioners : Mr.V.Sakkarapani

For Respondent : Mr.L.Baskaran

Government Advocate (Crl. Side)

ORDER

This petition has been filed to quash the complaint against the petitioners/Accused Nos.10 & 11 in C.C.No.69 of 2015 pending before the learned Judicial Magistrate No.II, Dharmapuri.



2. The petitioners/A10 and A11 in C.C.No.69 of 2015, who are facing trial for offence under Section 379 I.P.C. have filed this quash application.

3. The gist of the case is that on 13.05.2015, the de-facto complainant/Chief Manager in K.E.C. International Limited lodged a complaint stating that his company entered into an agreement with Power Grid Corporation of India for laying Power Transmission Line (400 KV DC Power Transmission Line) from Indur, Dharmapuri District to K.R.Thoppur, Salem District measuring about 60 kms. On 11.02.2014, one Ammasi had informed that the Aluminium Power Lines in the tower, which was available on 10.02.2014 evening was found missing on 11.02.2014 morning. Thereafter, discrete enquiry was made and finally found that the said Aluminium Electric Wire measuring about 2530 meters had been stolen by somebody. Thereafter, a case has been registered. During investigation it was found that the petitioners along with nine others have conspired and committed theft of Aluminium Electric Wires to the value around Rs.8,60,200/- and finally charge sheet was filed listing L.W.1 to L.W.10. The documents, materials and seized articles have been sent to the Court including the Aluminium Electric Wires and the money received by the petitioners and others by selling the thieved wires. The trial Court finding



prima-facie case, taken the complaint on file in C.C.No.69 of 2015. The primary ground on which the petitioners assails their petition is that only on the confession statement given by the co-accused one Sakthivel/A1, the petitioners have been falsely implicated in this case. The said Sakthivel is an employee of L & T Limited. From the petitioners, no recovery has been made. Further the entire case has been projected as though during a road check on 15.08.2014, some of the accused were proceeding in a car. On suspicion, they were apprehended and they confessed about the above offence. On their confession, the petitioners and some more persons have been arrayed as accused. Except for the confession of co-accused, there is no materials against the petitioners. The petitioners have been slapped with two more cases, of which, in one case, this Court quashed the proceedings against them in Crl.O.P.No.10896 of 2017 pertaining to C.C.No.29 of 2016. This case is also on the similar grounds. Hence, prayed for quashing of the complaint.

4. Learned Government Advocate (Crl. Side) appearing for the respondent-Police submitted that on the complaint of L.W.1, F.I.R. has been registered. Thereafter, on 18.05.2014, Accused Nos.4 to 9 were apprehended during road check and on their confession, the case got revealed and the role



played by the petitioners also came to light. Thereafter, the petitioners were arrested on 27.08.2014. The Inspector of Police, Indur Police Station had taken the petitioners to police custody and at that time, the first petitioner/ A-10 had admitted about their role played in the above case and on his confession statement a sum of Rs.2,50,000/- was recovered. In their confession, the petitioners have clearly stated that both the petitioners have joined together and sold the thieved Aluminium Electric Wires of 2530 meters and got the money and also shared with other accused. The balance money, which was left with them was recovered. From the petitioners, the ill-gotten money had been recovered for which there is no explanation. As regards other case, the facts of the case are different. There was no recovery in that case. In this case, Accused No.1 had clearly stated about the petitioners role in the offence. Further, from the petitioners there have been recovery. Apart from L.W.1/defacto complainant, L.W.2-Jayaraman and L.W.3-Dhanapal have clearly stated about the role played by the petitioners. L.W.4 and L.W.5 are the observation mahazar witnesses, who have stated about the missing of the Aluminium Electric Wire. L.W.6 and L.W.7 are the witnesses for confession and recovery. L.W.8 is the Sub-Inspector of Police, who registered the F.I.R. L.W.9 and L.W.10 are the Investigating Officers.



On completion of investigation, charge sheet filed. The points raised by the petitioners are factual, which are to be decided by the trial Court. Due to the pendency of the above O.P., the trial in the Lower Court could not be progressed. The case is now posted on 28.09.2022 for appearance of the accused. There are only limited witnesses and the entire trial can be completed within a period of four months, if the accused co-operate and by not adopting any dilatory tactics.

5. Heard both sides and perused the materials available on record.

6. Considering the submissions and on a perusal of materials it is seen that totally there are 11 accused and the case is pending for the past 7 years without any progress. There are only 10 witnesses in this case, of which, three witnesses are official witnesses, two witnesses are observation mahazar and rough sketch witnesses and other witnesses are witnesses for the occurrence, confession and recovery. Pursuant to the confession of the accused, there have been some recoveries. In view the same, this Court is not inclined to entertain this petition and the same is dismissed.



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M.NIRMAL KUMAR, J.

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7. The Trial Court is directed to give preference and proceed with the trial without any delay. It is made clear that, if any dilatory tactics is adopted by the petitioners as well as other accused, the trial Court shall take coercive action against the accused persons following the decision of the Hon'ble Supreme Court in the case of ***P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]*** and conclude the trial within a period of four months from the date of receipt of a copy of this order.

19.09.2022

Index: Yes/No
Internet: Yes/No
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To

1.The Judicial Magistrate No.II,
Dharmapuri.

2.The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.1613 of 2016

and

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