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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.2858 of 2022
and
Crl.M.P.Nos.1301 & 1303 of 2022

N.Palanisamy

...Petitioner/Accused

Vs.

1. State represented by,
The Inspector of Police,
Crime Branch CID,
Namakkal.

2. M.Meivel

...Respondents/Complainant/ Defacto
Complainant

PRAYER: This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to call for the records in C.C.No.21 of 2016 on the file of the learned Chief Judicial Magistrate, Namakkal and quash the same.

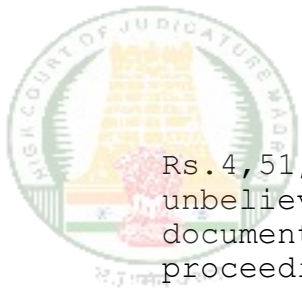
For Petitioner : Mr.M.Guruprasad

For R1 : Mr.A.Gokulakrishnan
Additional Public Prosecutor.

O R D E R

The Criminal Original Petition has been filed to quash the proceedings in C.C.No. 21 of 2016 on the file of the Chief Judicial Magistrate, Namakkal.

2.Learned counsel appearing for the petitioner would submit that the petitioner is facing trial for the offences under Section 408, 477-A, 201, 204 & 506(i) IPC. The allegations against the petitioner is that during the period between 08.06.2005 and 22.02.2006, the petitioner swindled a sum of Rs.4,51,39,000/- by falsification of accounts. He would further submit that the charge of falsification is not substantiated by legal proof with documentary evidence. Admittedly, the complainant is a Private Limited Company and the accounts are maintained and audited by qualified Account Auditors every year. The allegation, that the petitioner swindled the amount of



Rs.4,51,39,000/- within a short period of 8 months is unbelievable and the averments are not supported by any documentary evidence and hence, sought for quashment of the proceedings.

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3.Per contra, Mr.Gokulakrishnan, Additional Public Prosecutor would submit that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charges framed against the petitioner has to be gone into a full-fledged trial. Further, he would submit that the trial has also commenced and LW1/Meivel has also been examined. Hence, he prayed for dismissal of the petition.

4.This Court is of the view that all the grounds can be raised before the Trial Court and there is no merit in the petition to interdict the proceedings.

5.At this juncture, the learned counsel appearing for the petitioner would submit that in this case, LW1/Meivel, has already been examined as PW1. Since, the discharge petition was pending before the Trial Court, the petitioner had not cross examined the PW1 and he would pray that the petitioner may be permitted to recall and cross examine the P.W.1. He would further pray that the personal appearance of the petitioner before the trial Court, may be dispensed with.

6.Accepting the said submission, the presence of the petitioner before the Trial Court shall be dispensed with on condition that he shall be present on the date fixed for questioning under Section 313 of Cr.P.C., and at the time of passing judgment and whenever insisted upon by the Trial Court for the purpose of identification.

7.The Trial Court, on petition being filed by the petitioner, on the next hearing date shall recall PW1 for cross examination.

8.The petitioner is further directed to give an undertaking in the form of affidavit that he will be duly represented by a counsel on all hearing dates and that the Counsel representing him will cross examine the prosecution witnesses on the same day they are examined in chief. The petitioner shall not dispute the identity of the witnesses. The petitioner shall appear before the Court in the event his presence is insisted by the trial judge for the purpose of identification.If the petitioner adopts any dilatorial tactics, it is open to the Trial Court to insist for his appearance and deal with the petitioner in accordance with the judgment of Supreme Court of India, in State of Uttar Pradesh Vs. Shambunath Singh, reported in 2001(4)SCC 667.



9. Accordingly, this Criminal Original Petition dismissed. Consequently, connected Miscellaneous Petition in Crl.M.P.No.1301 of 2022 stands closed and Crl.M.P.No.1303 of 2022 stands ordered.

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Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

ham/rgi

To

1. The Chief Judicial Magistrate,
Namakkal.
2. The Inspector of Police,
Crime Branch CID,
Namakkal.
3. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.M.Guruprasad, Advocate, S.R.No.9392

Crl.O.P.No.2858 of 2022
and
Crl.M.P.Nos.1301 & 1303 of 2022

KG(CO)
RGA(03/03/2022)