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Crl.O.P.No.3538 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2022

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

Crl.O.P.No.3538 of 2021 and
Crl.M.P.Nos.2074 and 2075 of 2021

M.Sakthivel

... Petitioner

Vs.

The State of Tamil Nadu,
Inspector of Police,
Orleanpet Police Station,
Pondichery.
(Crime No.07 of 2017)

... Respondent

Prayer: Civil Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records relating to C.C.No.601 of 2019, on the file of the learned Judicial Magistrate Court – II, Pondicherry and to quash the same.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.Raj Sharath
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed to quash C.C.No.601 of 2019 on the file of the learned Judicial Magistrate Court – II, Pondicherry.

2. The petitioner who is the 10th accused along with others have been



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charged for the offence under Sections 468, 420 of I.P.C., and Section 7 (iii) r/w. 5 of the Lotteries (Regulation) Act, 1990. The case of the prosecution is that the petitioner along with the other accused persons have been selling banned three number lottery tickets through online by way of writing 3 numbers in note books which is in contravention of the Provisions of the Lottery Regulation Act, 1998.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. The learned counsel for the petitioner would submit that the petitioner/accused No.10 has been roped in this case only on the confession given by the accused and no other materials have been collected against the petitioner. Hence, the case should be quashed against him.

5. On perusal of the records, it is seen that there are totally 14 accused against whom the charge sheet has been filed. As against the petitioner except the confession statement given by one of the co accused, no other



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statement from any of the victims, had obtained. The confession of the co-accused is a weak piece of evidence and on the basis which, the charge sheet has been filed.

6. In this regard, it is relevant to refer the Judgment of the Hon'ble Supreme Court in ***Crl.A.No.714 of 2019, dated 24.04.2019*** in the case of ***Dipakbhai Jagdishchandra Patel vs. State of Gujarat and another***, wherein it has been held as follows:

“50. Proceeding on the basis that it is a confession by a co-accused and still proceeding further that there is a joint trial of the accused and that they are accused of the same offences (ignoring the fact that other accused are absconding and appellant appears to be proceeded against on his own) and having found that there is no recovery from the residence of the appellant of the counterfeit notes and that there is no other material on the basis of which even a strong suspicion could be aroused, we would find that the mandate of the law requires us to free the appellant from being proceeded against. Accordingly, we allow the appeal and the petition filed under Section 482 of the Cr.PC. The Order impugned passed by the Sessions Judge framing the charge against the



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appellant will stand set aside and the appellant will stand discharged.”

7. Without any materials to substantiate the charges against the petitioner, no useful purpose will be served if the petitioner is put to trial. That would only waste the judicial time and hence I feel it is a proper and fit case for exercising the Power under Section 482 of Cr.P.C. to quash the F.I.R.

8. In the result, this Criminal Original Petition is allowed and the C.C.No.601 of 2019 on the file of the learned Judicial Magistrate Court – II, Pondicherry is quashed. Consequently, connected miscellaneous petitions are closed.

30.09.2022

vum
Index:yes/No
Speaking order / Non speaking order



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WEB COPY **To**

1. Inspector of Police,
Orleanpet Police Station,
Pondichery.
2. The Public Prosecutor
High Court, Chennai.



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R.N.MANJULA,J.

vum

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