



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2022

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.8719 of 2022
and
Cr1.M.P.Nos.5082 & 5083 of 2022

S.Pathmakumar

...Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by,
The Sub-Inspector of Police,
Central Crime Branch, EDF -1, Team II,
Egmore, Chennai - 600 008.

2.Ramesh.G.Mahendran

...Respondents

PRAYER: This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for the records in C.C.No.15380 of 2008 on the file of the Special Court for CCB and CBCID, Egmore, Chennai -600 008 and quash the same.

For Petitioner : Mr.N.V.V.Krishna

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

O R D E R

The Criminal Original Petition has been filed to call for the records in C.C.No.15380 of 2008, on the file of the Special Court for CCB and CBCID, Egmore, Chennai -600 008 and quash the same.

2. Learned counsel appearing for the petitioner would submit that the petitioner is innocent and he is no way connected with the alleged offence as stated by the de-facto complainant/R2 and during the relevant period, the petitioner was not a Director. He would further submit that the petitioner had earlier approached this Court in Cr1.O.P.No.8529 of 2019 seeking to quash the proceedings in C.C.No.15380 of 2008 and this Court, while dismissing the petition vide order dated 29.03.2019, had directed the trial Court to complete the trial proceedings within a period of three months from the date of receipt of copy of that order.



3. Learned counsel would also submit that the case is of the year 2008 and the case as been taken on file during the year 2008 and for the past 14 years, there is no progress in the trial. He would further submit that LW1 had been examined as PW1 and PW1 had specifically stated that he has not given complaint against the petitioner. Apart from that there is no evidence as against the petitioner and hence, sought for quashment of the proceedings.

4. Per contra, Mr.Gokulakrishnan, Additional Public Prosecutor would submit that the case of the prosecution is that the petitioner, who is the Director of the Company, along with other Directors have fabricated the Company documents and removed the de-facto complainant from the Company. He would further submit that there are sufficient materials available to proceed with the case as against the petitioner herein. Earlier, the petitioner approached this Court in CrI.O.P.No.8529 of 2019 seeking to quash the proceedings in C.C.No.15380 of 2008 and this Court, while dismissing the petition vide order dated 29.03.2019, had directed the trial Court to complete the trial proceedings within a period of three months from the date of receipt of copy of that order. However, due to covid pandemic situation, it could not progress. He would also submit that the case stands posted to 20.04.2022 for examination of LW3 to LW5 and there are only six witnesses in this case and would further submit, the respondent will complete the trial at the earliest.

5. This Court is of the view that all the grounds can be raised before the Trial Court and there is no merit in the quash petition.

6. At this juncture, the learned counsel appearing for the petitioner would submit that the petitioner is a senior citizen aged about 62 years and he would also submit that the case is based on documents and the personal appearance of the petitioner may not be required before the trial Court, hence, he would pray that the personal appearance of the petitioner before the trial Court, may be dispensed with.

7. 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.

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 stands dismissed. However, the trial Court is directed to complete the trial as expeditiously as possible within a period of two months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition in Crl.M.P.No.5082 of 2022 stands closed and Crl.M.P.No.5083 of 2022 stands ordered.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Special Court for CCB and CBCID,
Egmore, Chennai -600 008.
- 2.The Sub-Inspector of Police,
Central Crime Branch, EDF -1, Team II,
Egmore, Chennai - 600 008.
- 3.The Public Prosecutor,
High Court of Madras.

+1cc to Mr.N.V.V.Krishna, Advocate SR. No. 26615

Crl.O.P.No.8719 of 2022
and
Crl.M.P.Nos.5082 & 5083 of 2022

SPD (CO)
PR (21/04/2022)