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Crl.O.P. No.23441 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2022

CORAM:

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.No.23441 of 2022
and Crl.M.P.No.14958 of 2022

Ramathal

...Petitioner

Vs

1. The State

Rep by The Sub Inspector of Police
Central Crime Branch
Tiruppur.

2. K.Loganathan

.. Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for records in C.C.No.351 of 2022 on the file of the Judicial Magistrate III, Tirupur under Sections 120(B), 406, 409, 468, 471, 476, 420, 201, 109, I.P.C and quash the proceedings against the petitioner.

For Petitioner : Mr.G.R.Hari

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor



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for R1

ORDER

This criminal original petition has been filed to quash the C.C.No.351 of 2022 on the file of the Judicial Magistrate III, Tiruppur.

2. The learned counsel for the petitioner submitted that the petitioner is the 4th accused and the respondent police prosecuted the petitioner along with three other accused for having committed offences under Sections 120(B), 405 r/w 406, 409, 468, 471 IPC @ 120, 468, 471, 476, 406, 420, 201, 409 IPC in Crime No.28 of 2017 based upon the complaint given by one Rathinasamy. After investigation the respondent police filed the final report in C.C.No.351 of 2022 before the Judicial Magistrate No.III, Tirupur. The petitioner being the 4th accused, there is no material filed by the prosecution to substantiate that the petitioner having participated in the conspiracy with the other accused as well as the Bank for obtaining loan. Apart from this participation or conspiracy, there is no specific overtact that this petitioner involved in fabrication of documents or forgery. Under these circumstances, punishing the petitioner under Section 120(B) IPC cannot be prosecuted and prosecution



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cannot be continued without any material to show the participation or conspiracy by the petitioner along with other petitioners. Hence, he prays to quash the proceedings in C.C.No.351 of 2022 on the file of the Judicial Magistrate No. III, Tiruppur.

3. The learned Additional Public Prosecutor submitted that after investigation, charge sheet has been filed and there is a specific statement made by the prosecution witnesses about the participation of this petitioner/4th accused along with the other accused for making false claim under the guise of "Sai Vision Impex" and they informed that they are running such a concern in that place and made to believe the complainant to offer his property as a security for obtaining loan from the bank and also cheated the Bank and obtained huge amount. Under these circumstances, before commencement of trial, it is inappropriate to quash the criminal proceedings against the petitioner and it will affect the prosecution against other accused and thus pleaded to dismiss the petition.

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



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5. On perusal of the records, it reveals that the petitioner is arrayed as A4 in C.C.No.351 of 2022 on the file of the Judicial Magistrate III, Tiruppur and the petitioner is charged along with other three accused. First accused is the son of the petitioner, second accused is the daughter-in-law of the petitioner and third accused is the Bank Manager of the Corporation Bank, Veerapandi Branch. The Bank Manager has substantiated the allegation that the 1st and 2nd accused have conspired together with an intention to deceive the second respondent to give his property as security to loan and to use that loan money to recover the property which was kept as security for the earlier loan. Without running the said concern namely "Sai Vision Impex" they bogusly stated that they are running the said concern and made to believe the defacto complainant to stand as a security for obtaining loan from the Bank and thereby third accused Bank Manager of the Corporation Bank, Veerapandi Branch also helped for sanctioning loan and committed fraud on the bank as well as the defacto complainant. But the learned counsel for the petitioner disputed the fact that the 4th accused/petitioner Ramathal is a party to obtain the loan and she has signed documents and she stood as a security or



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guarantor to obtain loan from the bank and there is no material to show that she participated with other accused for obtaining loan. This fraudulent dispute has to be adjudicated before the trial Court after letting in evidence. Before commencement of trial it is not proper to quash the criminal proceedings as against the petitioner alone.

6. At this juncture, the learned counsel for the petitioner sought permission of this Court to dispense with the personal appearance of the petitioner before the trial Court. Considering the fact that the petitioner is a lady and aged 64 years, personal appearance of the petitioner before the trial Court is dispensed with on condition that she should appear before the trial Court for further proceedings as and when required by the trial Court.

7. With the above observation the criminal original petition stands dismissed. Consequently connected miscellaneous petitions are also closed.

28.09.2022

Internet:Yes
Speaking/Non speaking order

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To

1. The Sub Inspector of Police
Central Crime Branch
Tiruppur.
2. The Judicial Magistrate Court III,
Tirupur
3. The Public Prosecutor,
High Court of Madras.



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V. SIVAGNANAM, J.

dpq

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