



Crl.O.P.No.26035 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2022

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.No.26035 of 2022

and

Crl.M.P.Nos.16078 & 16079 of 2022

Govindharaj

... Petitioner

Vs.

The State Represented by
The Inspector of Police,
Orleanpet Police Station,
Pondicherry.
(Crime No.07/2017)

... Respondent

Prayer : The Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records relating to the C.C.No.601 of 2019 on the file of the Judicial Magistrate Court-II, Pondicherry and quash the same.

For Petitioner ... Mr. A. Kasirajan

For Respondent ... Mr. S. Santhosh,
Government Advocate (Crl.Side)



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ORDER

This Criminal Original Petition is filed challenging the criminal proceedings in C.C.No.601 of 2019 on the file of Judicial Magistrate-II, Pondicherry.

2. Learned counsel for the petitioner submitted that the petitioner is arrayed as 8th accused in C.C.No.601 of 2019 and this Court by an order dated 30.09.2022 in Crl.O.P.No.3538 of 2021, quashed the case against the 10th accused, Sakthivel, on the ground that he was tagged in this case based upon the confession of the co-accused. He further submitted that 3 cases have been registered against the petitioner and others and the same had been quashed as against the petitioner. Therefore, seeking to quash the criminal proceedings against the petitioner in C.C.No.601 of 2019, the present petition has been filed.

3. Learned Government Advocate (Crl.Side) appearing for the State submitted that now, the case is posted for questioning.



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4. I have considered the rival submission and perused the records.

5. On perusal of the records, it is seen that the respondent police registered a case in Crime No.7 of 2017 for the offences punishable under Sections 420, 468 r/w 149 of IPC and 5 r/w 7(3) of Lottery Regulation Act, 1998 and 66-A of Information Technology Act, 2000 against the petitioner and others. After investigation, final report has been filed before the Judicial Magistrate-II, Pondicherry and the same has been taken on file in C.C.No.601 of 2019. Now, the matter is posted for questioning. The contention of the learned counsel for the petitioner is that the confession of co-accused cannot be acted upon to implicate the petitioner and in this case, this petitioner has been tagged only based on the confession of co-accused and the confession of the co-accused is a weak piece of evidence. But, it has to be testified before the trial Court, as to whether, the allegation against the petitioner is substantiated or not. Therefore, before commencement of the trial, it is inappropriate to quash the proceedings



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only on the ground that the petitioner has been tagged based upon the confession of the co-accused.

6. Therefore, I find no merit in the contention of the learned counsel for the petitioner and there is a specific allegation in the confession given by one of the co-accused that this petitioner sold his own lottery tickets. Therefore, the prosecution has to go ahead with the trial and during the trial alone it has to be decided. For just decision of the case, the trial has to be conducted. Further, it does not meet the parameters laid down by the Hon'ble Supreme Court in the cases in ***State of Haryana vs. Ch.BhajanLal (AIR 1992 SC 604)***, ***M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others (2021 SCC online 315)*** & ***PRATIBHA RANI Vs.SURAJ KUMAR & ANR (1985 Crl.L.J.817)***. Therefore, it is inappropriate to quash the C.C.No.601 of 2019 pending on the file of the Judicial Magistrate-II, Pondicherry. Therefore, I find no merit in this petition and the same is liable to be dismissed.



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WEB COPY 6. Accordingly, the Criminal Original Petition is dismissed.

Consequently, connected miscellaneous petitions are closed. The trial Court is directed to dispose the case within a period of four months from the date of receipt of copy of this order.

31.10.2022

AT

Index : Yes/No

To

1.The Judicial Magistrate Court-II, Pondicherry.

2.The Inspector of Police,
Orleanpet Police Station,
Pondicherry.

3.The Public Prosecutor,
High Court of Madras.



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V.SIVAGNANAM ,J.

AT

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