



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRL. O.P. NO.17404 OF 2017
AND CRL.M.P.NO.10645 &10646 OF 2017

K.Govindarajan

...Petitioner

Versus

1.State through
The Inspector of Police,
S-5, Pallavaram Police Station,
Pallavaram, Chennai-600 043
(Crime No.579 of 2012)

2.G.Raju

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.993 of 2012 now pending on the file of the learned Judicial Magistrate at Tambaram and quash the same

For Petitioners : M/s.R.Ganeshkumar
For Respondents : Mr.S.Vinoth Kumar for R1
Government Advocate(Crl.side)
Mr.Ayyappa Raja for R2
for M/s. R.Bharathkumar

O R D E R

This Criminal Original Petition has been filed to call for the records and quash the proceedings in C.C.No.993 of 2012 now pending on the file of the learned Judicial Magistrate at Tambaram for the offences under Section 420 of I.P.C r/w 109 of I.P.C.

2. The crux of the final report is that one Premkumar/A1 received a sum of \$30,500(US Dollars) from the defacto complainant and had agreed to pay a sum of Rs.15,09,750/- to the defacto complainant through his bank account. However, he did not pay the amount. A2 to A6 have supported A1 to cheat the defacto complainant.



3. The learned counsel for the petitioner submitted that the entire allegations is only against A1 and even in the first instance, A1 had never spoken about A2 to A6. The only allegation against the present petitioner/A2 is based on the confession statement said to have been given by A1, except that there are no other materials unearthed during the investigation to attract any of the offences against the present petitioner. Hence, he prays to quash the proceedings.

4. The learned counsel appearing for the respondent submitted that the amount has been received by the petitioner/A2 and also by the other accused. He further submitted that there are materials available on record to proceed against them. Hence, he opposed to quash the proceedings.

5. On perusal of the entire materials and from the above submissions made by both the learned counsel, this Court is of the view that the entire American Dollars(\$) was received by A1 from the defacto complainant and he has agreed to pay by way of Indian Rupee to the tune of Rs.15,09,750/-, which has not been returned. From the inception, it was a stand of the defacto complainant that A1 has received the amount and he has not repaid the same. Only on the basis of the confession statement said to have been given by A1 that A2 to A6 also came in a car along with A1 at the relevant point of time, thereby, all other accused were implicated and no amount whatsoever was recovered from the petitioner. At the time of investigation, except the statement of A1 that after receiving the amount from the defacto complainant, A1 went in a car where five persons who travelled along with him, no other materials whatsoever available on record against the present petitioner. Therefore, when the allegation itself indicate that the amount has been received by A1 and that no other materials are available to implicate the petitioner/A2, prosecution against the petitioner/A2 is nothing but abuse of process of law and the same is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently connected miscellaneous petitions are closed

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

msv/nr

To

1. The Judicial Magistrate,
Tambaram



2. The Inspector of Police,
S-5, Pallavaram Police Station,
Pallavaram, Chennai-600 043

3. The Public Prosecutor
High Court, Madras.

+1cc to Mr.R.Ganesh Kumar, Advocate, SR.NO.972

Cr1. O.P. No.17404 of 2017
and Cr1.M.P.No.10645 &10646 of 2017

PL(CO)
KKV/01/02/2022