



Crl.O.P.(MD) No.11517 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.06.2022

CORAM:

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

Crl.O.P.(MD) No.11517 of 2022 and
Crl.M.P(MD).No. 7261 and 7266 of 2022

M.Senthil

...Petitioner

Vs.

1.The Inspector of Police,
South Gate Police Station,
Madurai City,
(Crime No.654 of 2012)

2.N.Gnanaprakasam

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to the proceedings in C.C.No.170 of 2016 which is pending before the learned Judicial Magistrate No.IV, Madurai and quash the same and against this petitioner.

For Petitioner : Mr.K.Manavalan

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



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ORDER

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This Criminal Original Petition is filed to call for the records relating to the proceedings in C.C.No.170 of 2016 which is pending before the learned Judicial Magistrate No.IV, Madurai and to quash the same as against this petitioner.

2. The learned counsel appearing for the petitioner submitted that in the complaint, the name of the person Thiagarajan, S/o. Seenivasan is not mentioned. According to the prosecution, one Thiagarajan gave 150 gm 24 Carrot gold worth about a sum of Rs.4,14,000/- to the accused. But the fact that one Thiagarajan had given Gold to the accused was not mentioned in the First Information Report. This goes to the root of the prosecution case and the criminal proceeding, has to be quashed.

3. The learned Additional Public Prosecutor appearing for the respondent Police submitted that admittedly, the complaint was given by the complainant for not paying the value of 150 gms 24 Carrot Gold received by the accused.



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4. According to the prosecution, the accused approached the complainant first for immediate need of 150 gms 24 Carrot gold for making jewels, for which, he along with one Bala Subuu @ Balasubramaniyan approached the said Thiyagarajan and he gave the gold in the presence of the others and the accused also assured that he will return the same within one hour. But, so far, the same was not returned. Therefore, this controversial statement has to be decided in the trial Court through examining the prosecution witnesses and at this initial stage, the charge sheet cannot be quashed.

5. On a perusal of the records, it reveals that a case has been registered on the complaint given by the complainant viz., Gnanaprakasam in Crime No.654 of 2012 on 08.07.2012, for the offences under Sections 406, 420 and 109 IPC and after investigation, charge sheet has been filed and found that the said Thiyagarajan gave 150 gms of 24 Carrot gold to the accused for the value of Rs.4,14,000/- which was received by the accused in the presence of complainant Gnanaprakasam and others.

6. Now, it is disputed that as in the complaint there is no



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allegation that the said Thiagarajan gave the Gold to the accused but in the final report, it has been stated that the said Thiagarajan gave the gold to the accused is disputed and it has to be decided based on the prosecution evidence before the trial Court.

7. The disputed fact cannot be gone into while exercising the power under Section 482 Cr.P.C., Therefore, the trial has to be conducted in the criminal prosecution and not by exercising the power under Section 482 Cr.P.C., Therefore, I find no merit in the petition for quashing the C.C.No.170 of 2016 pending before the learned Judicial Magistrate No.IV, Madurai.

8. In the result, the Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed.

29.06.2022

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
trp



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To

1.The Inspector of Police,
South Gate Police Station,
Madurai City,

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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V.SIVAGNANAM, J.

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