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Crl.O.P.No.1562 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.No.1562 of 2021

and

Crl.M.P.Nos.904, 5300 & 5301 of 2021

Manohar Lal @ S.M.Lal

... Petitioner / Accused

-Vs-

1.The State Rep. by
Inspector of Police,
Central Crime Branch,
EDF-2, Team-2,
Vepery, Chennai.
Crime No.372 of 2014

2.Rekha Agarwal

... Respondent / Complainant

R2 is impleaded as per order in
Crl.M.P.No.3429 of 2021 in
Crl.O.P.No.1562 of 2021 dated
16.03.2021.

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in C.C.No.2678 of 2018 on the file of the learned Judicial Magistrate, CCB & CBCID, Allikulam, Chennai and to quash the order of framing of charges dated 04.01.2020.



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For Petitioner : Mr. G. R. Hari
For R1 : Mr. A. Damodaran,
Additional Public Prosecutor.
For R2 : Mr. S. Senthilnathan

ORDER

This petition is to quash the order of charges framed by the trial Court in C.C.No.2678 of 2018 on the file of the Metropolitan Magistrate, For Exclusive Trial of CCB Cases (relating to cheating cases in Chennai) and CBCID Metro Cases, for the alleged offences under Sections 406, 420, 467, 468 and 471 read with 120-B and 506(i) IPC.

2.It is alleged in the final report that the petitioner along with his brother and his brother's wife had made false representation and received money and thereafter did not make the payment and thus guilty of offence under Section 420 IPC along with the other offences.

3.The learned counsel for the petitioner would submit that the trial Court had not considered the materials in the proper perspective and had



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framed charges even though there were no materials to frame the charges for the offence alleged. There is nothing in the charges to suggest, as to how the petitioner had committed any forgery of any document. Even with regard to the offence under Section 420 IPC, the only allegation is that he was present along with the 1st accused (since deceased), while the payment was made by the defacto complainant to the 1st accused. There is no material in the impugned final report to show that the petitioner had received any money from the 1st accused.

4.The learned counsel for the defacto complainant and the learned Additional Public Prosecutor would submit that the points raised by the petitioner has to be adjudicated only before the trial Court. Even if there is an error in framing of charges, the issue can be addressed during the course of trial and merely because, the charges have been erroneously framed, it cannot be said that the petitioner is prejudiced. Further, it is for the prosecution to establish only during the course of trial that the offence of any forgery and cheating have been committed by the petitioner. Hence, they prayed for dismissal of the quash petition.



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5.This Court finds that it is the case of the petitioner that though there is no averment in the impugned final report to show, as to the nature of document forged by the petitioner, the petitioner is unnecessarily charged for the alleged offence of forgery. This Court is of the view that if the prosecution had failed to produce the alleged forged document, then the charge under Section 468 IPC has to fail. However, it is for the prosecution to establish the said offence before the trial Court. As regards the offence under Sections 420 IPC and 406 IPC, it is the case of the defacto complainant that the money was transferred to the petitioner from the account of A1. Since there is a factual controversy, the same cannot be entertained in a quash petition. However, the petitioner is at liberty to raise all the points before the trial Court and it is needless to say that the trial Court shall consider the same on its merits without being influenced by any of the observations made in this order.

6.Since the petitioner is aged about 73 years, his appearance before the trial Court is dispensed with, unless the learned Magistrate considers his presence necessary for the progress of the trial.



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7. Since the case is of the year 2018, the learned Magistrate may expedite the trial process and preferably complete it within a period of three months from the date of receipt of a copy of this order.

8. With the above observations, this Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

26.06.2023

smv

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

To,

1. The Deputy Registrar of Companies,
Tamil Nadu,
Having office at Shastri Bhavan,
26, Haddows Road,
Chennai – 600 006.

2. The Chief Metropolitan Magistrate,
Economic offence, Egmore, Chennai.

3. The Public Prosecutor,
High Court of Madras.



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SUNDER MOHAN,J.
smv

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