



WEB COPY



Crl.O.P.No.26538 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.26538 of 2016
and Crl.M.P.Nos.13303 of 2016 & 3041 of 2020

D.Chandrasekaran
...Petitioner

Vs.

1. The Inspector of Police,
Crime Branch CID,
Erode District,
Erode.

2. R.Elango

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in C.C.No.136 of 2016 on the file of the learned Judicial Magistrate No.III, Erode and quash the same as against the petitioner.

For Petitioner : Mr.B.Kumar, Senior Counsel
For Mr.S.Ramachandran

For Respondents
For R1 : Mr.L.Baskaran
Government Advocate (Crl. Side)
For R2 : Mr.R.Srinivas



Crl.O.P.No.26538 of 2016

ORDER

WEB COPY

This petition has been filed to quash the proceedings in C.C.No.136 of 2016 on the file of the learned Judicial Magistrate No.III, thereby taken cognizance for the offences under Sections 467, 471, 419, 420 r/w 120(B) of IPC, as against the petitioner.

2. The case of the prosecution is that an Association in the name and style of "Periyar District Cricket Association" was registered vide Registration No.37/1980, dated: 21.05.1980 at the District Registrar of Societies, Erode, later the same was re-named as "Erode District Cricket Association" vide registration No.91/1996 and functioning in the revised name. Prior to 09.01.2010, the accused [A1] Surendran was the Secretary of the above said Association. During that period, the accused [A-1] in the capacity of the Secretary of the above said Association had acted against the bye law of the association and also utilized the funds of the association for his personal gain.

3. Based on the above activities of A-1, a Resolution has been passed in a Special Executive meeting held on 03.01.2010 for the removal of the A1 from the Association and also issued a Show Cause Notice to A-



Crl.O.P.No.26538 of 2016

1 by Registered Post on 09.01.2010. Thereafter, on 15.05.2010, an

Annual General Body Meeting was conducted by one Sridhar - President along with Vice President, Joint Secretary and party passed a resolution removing Al from the post of Secretary. Thereafter, Al decided to run the Association by illegal means had conspiracy with the following persons, viz., Sankara Ramanathan (A2) President, Matheswaran (A3) - Executive Committee Member, Arun Arumugam (A4) Vice President, Pushpanathan (A5)- Joint Secretary, S.Balaji (A6) Treasurer, P.Shanmugasundaram (A7) EC. Member, V.S.Prabhu (A8) EC. Member, R.J.Varadharaja Prabhu (A9)- EC. Member, A Gobinath (A10)-E.C. Member, N.Raju (A11)-E.C. Member, Jak Jaylance (A12) - Vice President, Jaffer Asique Ali (A13) Joint Secretary, P.Nithyananthan (A14) - Vice Presiden Ramesh R.Lulla (A15) Vice President, D.Chandrasekaran (A16) Auditor (Accused herein) along with members and had registered another cricket association in the name of "DISTRICT CRICKET ASSOCIATION OF ERODE" by producing forged documents with fake signature of one of the member, viz., Dr.K.C.Balasubramanian as if, he has participated in a First Meeting held on 09.02.2010 and used some other forged documents and the same was registered at the District Registrar Office, Karungalpalayam vide Regn.No.71/2010, dated: 17.03



Crl.O.P.No.26538 of 2016

2010. Thereby, A1 along with others dishonestly induced Tamilnadu Cricket Association to believe that "ERODE DISTRICT CRICKET ASSOCIATION" had changed its name as " DISTRICT CRICKET ASSOCIATION OF ERODE" to grab the benefits and funds from Tamilnadu Cricket Association and diverted the same to the forgedly created Association to the tune of Rs.12,05,169/- through Cheques/demand drafts for the period from 03.08.2010 to 08.02.2014.

4. On receipt of the said complaint, the Inspector of Police, Karungalpalayam registered FIR in Crime No.852 of 2012 and the same has been transferred to the first respondent and renumbered as Crime No.1 of 2014, for the offence under Sections 120B, 419, 420, 467 and 471 of IPC. After completion of investigation the first respondent filed final report and the same has been taken cognizance in C.C.No.136 of 2016 on the file of the learned Judicial Magistrate No.III, Erode.

5. The learned Senior Counsel appearing for the petitioner submitted that there are totally 16 accused in which the petitioner is arrayed as 16th accused. He is an Auditor by his profession. He has been implicated as an accused for the offence punishable under Section 420 of



Crl.O.P.No.26538 of 2016

IPC r/w 120B of IPC. None of the allegations made by the second respondent and other witnesses even if taken on face value would made out a case warranting any charge as against the petitioner. The role of the petitioner is very limited since, the association of the petitioner with the Association formed by the first accused and others is limited is being Chartered Accountant. It is not like cases in which Chartered Accountant played major role, since the first accused formed Association and affiliated with the Tamil Nadu Cricket Association.

5.1. He further submitted that the involvement of the petitioner in the activities of the first accused and its members viz., other accused 2 to 15 is nothing. He further submitted that even assuming that the petitioner played role with other accused persons, the grievances of the second respondent is that he was not a member of Erode District Cricket Association. Now the Tamil Nadu Cricket Association has given recognition to the association formed by the first accused and its member viz., the accused 2 to 15, after having contribution given by the accused 1 to 15. The complaint itself lodged without any material to attract any of the offence.



Crl.O.P.No.26538 of 2016

5.2. He further submitted that the Association called Erode

District Cricket Association filed writ petition challenging the registered of the District Cricket Association of Erode with the Tamil Nadu Cricket Association in W.P.No.19484 of 2013 before this Court. The said writ petition was dismissed by this Court as no merits. Therefore, no offence is made out as against petitioner. Hence, he prayed to quash the proceeding as against the petitioner.

6. Heard the learned counsel appearing on either side and perused the material placed before this Court.

7. On perusal of records revealed that there are totally 16 accused in which the petitioner is arrayed as 16th accused. Even according to the case of the prosecution, he has been charged for conspiracy with other accused persons. He prepared necessary forms for the registration of the Association created by the first accused and he stood as witness for other transactions. In fact, initially the complaint lodged by the second respondent was not considered and only after directions issued by this Court, the FIR has been registered in Crime No.852 of 2012 for the offence under Sections 120(b), 406, 419, 420, 467, 468 & 471 of IPC.



WEB COPY

8. The crux of the allegations in the complaint is that the first accused without consent of the members, they prepared forms and forged their signature and filed for registration of Association by named District Cricket Association of Erode. Even according to the case of the prosecution as far as the petitioner is concerned, he is an auditor by profession and he had criminal conspiracy along with other accused persons and prepared forms for the association created by the first accused. Further alleged that the petitioner was the mater brain of the registration of the Association. In order to substantiate this allegations, no one has spoken about the overt act of the petitioner. The first respondent had examined 65 witnesses and recorded their statement. On the strength of the statement, the first respondent filed final report for the charges under Sections 120(b), 419, 420, 467 & 471 of IPC.

9. On perusal of the statement of the witnesses nothing revealed to attract the any of the offence as against the petitioner. He is being an auditor of the Association, he has been falsely implicated as an accused. Except auditing the accounts of the Association called District Cricket Association of Erode, no other allegations made out as against the petitioner. Therefore, the initiation of prosecution as against the petitioner



Crl.O.P.No.26538 of 2016

is nothing by clear abuse of law and Court. Further, the defacto complainant himself agreed for change of name of the association from Erode District Cricket Association to District Cricket Association of Erode. It was registered with the Registrar of Societies vide document No.71 of 2010. Therefore, the defacto complainant had accepted to alter the association name. Therefore, when the challenge was made as against the order dated 29.11.2021, passed by the District Registrar (Societies) in W.P.No.19484 of 2013, this Court by an order dated 08.11.2022 dismissed the writ petition and observed that the defacto complainant had accepted to alter the association name and it is evident from the order impugned in the said writ petition.

10. Further it seems that there is a dispute between the first accused and the second respondent with regard to formation of Cricket Association. On perusal of the statement of the member from the Tamil Nadu Cricket Association one K.S. Vishwanathan @ Kasivishwanathan revealed that the association headed by the first accused has been formulated by the Tamil Nadu Cricket Association. Except the first accused association no other association from Erode District formulated by the Tamil Nadu Cricket Association. Further, he advised both the



Crl.O.P.No.26538 of 2016

defacto complainant and the first accused to compromise the issue.

Therefore, the petitioner is nothing to do with the charge levelled by the prosecution. Hence, the entire prosecution as against the petitioner cannot be sustained and it is liable to be quashed.

11. In view of the above discussions, the proceedings in C.C.No.136 of 2016 on the file of the learned Judicial Magistrate No.III, is hereby quashed as against the petitioner alone. The trial Court is directed to proceed with the trial as against the other accused persons and complete the same within a period of six months from the date of receipt of a copy of this Order.

12. With the above directions, the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

13.10.2023

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
rts

G.K.ILANTHIRAIYAN. J.

rts

To



Crl.O.P.No.26538 of 2016

WEB COPY

1. The Judicial Magistrate No.III,
Erode
2. The Inspector of Police,
Crime Branch CID,
Erode District,
Erode.
3. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.26538 of 2016
and Crl.M.P.Nos.13303 of 2016 & 3041 of 2020

13.10.2023