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Crl OP Nos. 2410, 5311 & 7840 / 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Criminal Original Petition Nos. 2410, 5311 & 7840 of 2021
and
Crl.M.P. Nos. 1330, 3397 & 5187 of 2021

Crl.O.P. Nos. 2410 & 7840 of 2021

Mr. M. Ganesan ... Petitioner in Crl.O.P. No. 2410 of 2021

1.Mrs.Vijayalakshmi

2.Mr.Arun Prasanna ...Petitioners in Crl.O.P. No. 7840 of 2021

Versus

1.The State rep. by,
The Inspector of Police,
Central Crime Branch, EDF,
Team – III, Vepery,
Chennai – 600 007.

2.Mr. Rajappa ...Respondents in both the petitions

COMMON PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records in C.C. No. 4304 of 2020, on the file of the learned Metropolitan Magistrate for the Exclusive trial of CCB and CBCID Cases, Egmore, Chennai – 8



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and quash the same.

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For Petitioners : Mr. M. Mohammed Rafi.

For Respondents : Mr. A. Damodaran,
Additional Public Prosecutor for R1.

Mr. K.P. Anantha Krishna for R2.

Crl.O.P. No. 5311 of 2021

1.Mr. Rajappa

2.Krishnamoorthy

3.Mohan

...Petitioners

Versus

1.The State rep. by,
The Inspector of Police,
Central Crime Branch,
Team – II, Vepery,
Chennai – 600 007.

2.Ganesan

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the original records and quash the final report in C.C. No. 1502 of 2020 pending on the file of XI Metropolitan Magistrate, Saidapet.



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For Petitioners : Mr. K.P. Anantha Krishna

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For Respondents : Mr. A. Damodaran,
Additional Public Prosecutor for R1.

Mr. M. Mohammed Rafi for R2.

COMMON ORDER

Crl.O.P. No. 5311 of 2021 has been filed to quash the final reports in C.C. No. 1502 of 2020, pending on the file of XI Metropolitan Magistrate, Saidapet, Chennai and Crl.O.P. Nos. 7840 and 2410 of 2021 was filed challenging the final report in C.C. No. 4304 of 2020, pending on the file of the Metropolitan Magistrate Court for the exclusive trial of CCB cases and CBCID cases, Egmore, Chennai.

2.The final report in C.C. No. 4304 of 2020 has been filed pursuant to the investigation in Cr.No. 247 of 2014 for the alleged offence under Sections 406, 420, 506(ii) read with 34 of the Indian Penal Code lodged by one Rajappa who is the petitioner in Crl.O.P. No. 5311 of 2021. The final report in C.C. No. 1502 of 2020 has been filed pursuant to the investigation in Cr.No. 521 of 2015 for the alleged offence under Section 120(b), 417, 465, 467, 468 and 471 read with 34 of the Indian Penal lodged by one Ganesan who is the petitioner in Crl.O.P. No.2401 of



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2021. The aforesaid two final reports were filed under the following circumstances;

(a)Rajappa had given a complaint against Ganesan (petitioner in Crl.O.P. No. 2410 of 2021), Vijayalakshmi and Arulprasanna (petitioners in Crl.O.P. No. 7840 of 2021) stating that they had cheated him and obtained a sum of Rs.10,00,00,000/- approximately by making a false promise that they would obtain license for sand mining from the Government; that when the defacto complainant and others requested the said Ganesan, Vijayalakshmi and their son for money, they abused him in filthy language and threatened him for dire consequences; This complaint was registered in Cr.No. 247/2014 on the file of the Central Crime Branch, Team – III, Vepery, Chennai.

(b)While the investigation was pending in the said crime number, the said Ganesan had given a complaint against Rajappa stating that he had forged a receipt making it appear that Ganesan deceived Rs.7,00,00,000/- money from the Rajappa. This complaint was registered in Cr.No. 521 of 2015 on the file of the Central Crime Branch,



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Team – II, Vepery, Chennai.

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(c)The Investigating Officer who investigated the First Information Report lodged by Rajappa had filed final report in C.C. No. 4304 of 2020 against Ganesan, Vijayalakshmi and their son pending on the file of Metropolitan Magistrate Court for the exclusive trial of CCB cases and CBCID cases, Egmore, Chennai. The Investigating Officer who investigated the First Information Report lodged by Ganesan had filed final report in C.C. No. 1502 of 2020 on the file of XI Metropolitan Magistrate Court, Saidapet against Rajappa and two others.

3.(a) The learned counsel for the petitioners in Crl.O.P. Nos. 2410 & 7840 of 2021 representing Ganesan, his wife and son submitted that the entire case of the complainant Rajappa was based on the fact that Ganesan had given a receipt for Rs.10,00,00,000/- promising to obtain sand mining license from the government. The said allegation has been found to be false as per the final report filed on the First Information Report lodged by Ganesan in C.C. No. 1502 of 2020 on the file of XI Metropolitan Magistrate Court, Saidapet. In the said final report, the Investigating Officer had stated that the receipt produced by Rajappa



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purported to be signed by Ganesan was forged. The stamp paper and the date of purchase of stamp paper differs and hence it has been found that Rajappa and others have committed forgery. The learned counsel therefore, submitted that when the main allegation which is based on this receipt is found to be forged, the prosecution against the petitioners is misconceived and an abuse of process of law. The version, therefore, in the impugned final report is false and hence, liable to be quashed.

(b) Further, the learned counsel submitted that in any event, the petitioners in Crl.O.P.No. 7840 of 2021 who are the wife and son of Ganesan had nothing to do with the alleged offence and have been roped in only to arm twist the Ganesan. Apart from the vague allegation that the wife viz., Vijayalakshmi has also represented that she knows the officials in Secretariat, there is nothing to implicate either the first petitioner or the second petitioner in Crl.O.P. No. 7840 of 2021. The learned counsel submitted that even as per the complaint of Rajappa, the receipt was given by Ganesan. Therefore, the learned counsel submitted that in any event the prosecution against the petitioners in Crl.O.P. No. 7840 of 2021 is malafide and false.



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4.Mr. K.P. Anantha Krishna, learned counsel for the petitioners in

Crl.O.P. No. 5311 of 2021 and the learned counsel for the second respondent in Crl.O.P. Nos. 2410 & 7840 of 2021 submitted that the allegations have to be adjudicated only before the trial Court. This case is not only based on the receipt but also on other circumstances and representations made by the petitioners. Further, the said Ganesan and Vijayalakshmi had received Rs.3,00,00,000/- making false representation that they knew the officials in the state Government and would obtain sand mining license. This allegation have to be gone into only before the trial Court. As regards the final report as against Rajappa, he submitted that the said complaint is false and it has been filed only as a counter blast to the complaint filed by him. Further there is nothing in the impugned final report to show that Rajappa and other petitioners in Crl.O.P. No. 5311 of 2021 had created the alleged forged document. That apart, the original has not been seized by the Investigating Officer and in such circumstances, the offence cannot be established. The prosecution in the absence of any evidence to show that Rajappa had forged the receipts, cannot conclude that Rajappa had committed forgery and prayed for quashing of the final report as against Rajappa and others.



5. This Court finds that the proceedings against Ganesan and others relates to cheating and criminal breach of trust primarily. In support of the said allegation, it appears that Rajappa had relied upon the receipt said to have been issued by Ganesan. Since the receipt was found to be forged and a final report was filed in C.C. No. 1502 of 2020, the learned counsel for the petitioners would submit that both the versions cannot be true. If Rajappa had relied upon the forged document to allege cheating, then final report alleging cheating has to be quashed. There cannot be any doubt that if a party had forged a document and relied upon it to maintain a complaint, the said complaint cannot be sustained. However, this issue as to whether the said Rajappa and others had forged the receipt and as to whether there was any cheating by Ganesan, has to be adjudicated only before the trial Court. Therefore, this Court is not inclined to entertain the petitions filed by both Rajappa and Ganesan.

6. It is seen that the final report against Rajappa is pending trial before the XI Metropolitan Magistrate Court, Saidapet in C.C. No. 1502 of 2020. The other C.C. No. 4304 of 2020 against Ganesan, his wife and son is pending on the file of Metropolitan Magistrate Court for the exclusive trial of CCB cases and CBCID cases, Egmore, Chennai Since



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both the cases are interconnected, it is desirable that both are tried by same learned Magistrate. Hence, C.C. No. 1502 of 2020, on the file of XI Metropolitan Magistrate Court, Saidapet, Chennai is transferred to Metropolitan Magistrate Court for the exclusive trial of CCB cases and CBCID cases, Egmore, Chennai. The learned Magistrate is directed to try both the cases simultaneously and deliver Judgment on the same day.

7. With the above observations, Crl.O.P. Nos. 2410 & 5311 of 2021 are dismissed. Consequently, the connected Miscellaneous Petitions are closed.

8. As regards the petitioners in Crl.O.P. No. 7840 of 2021 who are the wife and son of Ganesan, this Court is of the view that apart from the vague allegation that the wife also represented that she was close to the persons in power, there is nothing to indicate their involvement in the alleged offences. Even according to the complaint of Rajappa, the receipt is said to have been issued by Ganesan. In a dispute between the Ganesan and Rajappaa, wife and son of Ganesan are sought to be



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implicated without any basis. It is also seen from the final report that amount of Rs.3,00,00,000/- was also transferred to the account of Ganesan. Hence, in such circumstances, the prosecution against the petitioners is an abuse of process of law and has been made only with a view to arm twist Ganesan and wreak vengeance on him. Therefore, the proceedings against the petitioners in Crl.O.P. No. 7840 of 2021 are liable to be quashed.

9. Accordingly, Crl.O.P. No. 7840 of 2021 is allowed by quashing the proceedings against the petitioners alone in C.C. No. 4304 of 2020 on the file of the Metropolitan Magistrate Court for the exclusive trial of CCB cases and CBCID cases, Egmore, Chennai. The learned Magistrate may try the cases in C.C. No. 4304 of 2020 filed against Ganesan and C.C. No. 1502 of 2020 filed against Rajappa and others on merits without being influenced by any of the observations made in this order. Consequently, the connected miscellaneous petition is closed.



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30.06.2023

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Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

- 1.The Inspector of Police,
Central Crime Branch, EDF,
Team – III, Vepery,
Chennai – 600 007.
- 2.The Inspector of Police,
Central Crime Branch,
Team – II, Vepery,
Chennai – 600 007.
- 3.The Metropolitan Magistrate Court for
the exclusive trial of CCB cases and CBCID cases,
Egmore, Chennai.
- 4.The XI Metropolitan Magistrate Court,
Saidapet,
Chennai.
- 5.The Additional Public Prosecutor,
High Court of Madras,
Chennai.



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SUNDER MOHAN, J

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Crl.M.P. Nos. 1330, 3397 & 5187 of 2021

Dated: 30.06.2023