



Crl.O.P.No.5801 of 2021

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P. No.5801 of 2021

&

Crl. M.P.No. 3770 of 2021

Kamlesh Kothari

... Petitioner

Vs.

1.The State Rep by
The Inspector of Police,
R-4, Soundarapandianar Angadi Police Station,
T. Nagar,
Chennai – 600 017.

2. A.Paramasivam

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in C.C.No.1448 of 2020 on the file of the learned Metropolitan Magistrate XVII,



Crl.O.P.No.5801 of 2021

Saidapet, Chennai and quash the same.

WEB COPY

For Petitioner : Mr. John Sathyan
Senior Advocate
For Mr. V.S.Senthilkumar

For Respondent 1 : Mr. A.Damodaran
Additional Public Prosecutor

For Respondent 2 : Ms. G.Nivedita
for Mrs. Y.Meenakshi Sundaram.

ORDER

The petition is filed to quash the final report for the alleged offences under Section 341, 342, 363, 294 (b), 506 (i) IPC read with Section 149 IPC.

2. It is alleged in the final report that the defacto complainant had borrowed money from the finance company run by the 1st accused and since he did not make the payment, the accused 3 to 5 had abducted the defacto complainant and confined him illegally in the office premises belonging to the 1st accused and thus committed



aforesaid offences.

WEB COPY

3. Mr. John Sathyan, learned Senior Counsel for the petitioner would submit that the petitioner is arrayed as A2 in the impugned final report. Admittedly, the agreement was entered into between the proprietor of VK Finance / 1st accused and the wife of the defacto complainant. The petitioner who is the brother of the 1st accused had nothing to do with the alleged offence. The petitioner is sought to be implicated only to arm-twist the 1st accused for settlement. The learned senior counsel would further submit that the impugned prosecution is only to avoid return of loan amount, which is due to be paid to the 1st accused.

4. The learned counsel for the defacto complainant and the learned Additional Public Prosecutor would submit that even though the agreement was entered into between the 1st accused and defacto complainant's wife, the petitioner was also present when the defacto



complainant was taken to the office of the 1st accused. The allegations in any case have to be adjudicated only before the Trial Court and prayed for dismissal of the quash petition.

5. On perusal of the impugned final report and on hearing the submissions of the learned counsels on the either side and the learned Additional Public Prosecutor, this Court finds that the impugned final report alleges that A3 to A5 abducted the defacto complainant stating that the defacto complainant's wife was due to return loan amount taken from the 1st accused. The only allegation against the petitioner is that he was also present in the office of the 1st accused when the defacto complainant was brought to the office of the 1st accused. This Court is of the view that admittedly the agreement is between the 1st accused and the defacto complainant's wife. The petitioner cannot be held guilty for the alleged offences, merely because he was present in the office of the 1st accused. Even if the aforesaid allegations are accepted to be true, the offences are not made out as against the



Crl.O.P.No.5801 of 2021

petitioner. Hence, this Court is of the view that the final report as against the petitioner is liable to be quashed and is accordingly quashed.

6. The petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

7. The learned Metropolitan Magistrate XVII, Saidapet, Chennai, shall proceed with the other accused in accordance with law and complete the Trial as expeditiously as possible, in any event preferably within a period of 3 months from the date of receipt of a copy of this order.

27.06.2023

kan

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No



WEB COPY



Crl.O.P.No.5801 of 2021

To

1.The Metropolitan Magistrate XVII, Saidapet,
Chennai.

2.The Inspector of Police,
R-4, Soundarapandianar Angadi Police Station,
T. Nagar,
Chennai – 600 017.



WEB COPY



Crl.O.P.No.5801 of 2021

SUNDER MOHAN. J,

kan

Crl.O.P.No. 5801 of 2021



WEB COPY



CrI.O.P.No.5801 of 2021

27.06.2023