



Crl.O.P.No.15995 of 2021

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THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2023

CORAM:

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

Crl.O.P.No.15995 of 2021

and

Crl.M.P.Nos.8720 & 8721 of 2021

S.S.Thaseen

... Petitioner

Vs

1. State rep. by its
The Inspector of Police,
Central Crime Branch,
EDF-I, 2nd Team,
Vepery, Chennai-7.

2. Mohammed Ishaq

3. Mohamed Aslam

... Respondents

PRAYER: Criminal Original Petitions filed under Section 482 Cr.P.C. to call for the records relating to the C.C.No.1411 of 2020 on the file of the Special Judge, CCB and CBCID at Egmore, Chennai and quash the same.



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For Petitioner : Mr.S.Suresh
For Respondent 1 : Mr.A.Gopinath
Government Advocate (Crl.Side)
For Respondent 3 : No appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.1411 of 2020 on the file of the learned Special Judge, CCB and CBCID at Egmore, Chennai thereby taken cognizance for the offences under Sections 409,420,468,471 r/w 120(b) of IPC.

2. The case of the prosecution is that the Defacto-complainant is running four textile shops in the name of Sangam Fashion, Sangam Silks, Sangam Readymade and Sangam Menswear. The 1st accused was engaged as Personal Secretary of the Defacto-complainant from the year 2005. Utilizing the said capacity and his position, he had misappropriated to the tune of Rs.3,11,92,243/- from the Defacto-complainant by transferring the amount to his personal account. He along with his wife opened account in the name of Sangam and Sara Traders and transferred



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the money in the said account and thereby cheated the 1st respondent/Defacto-complainant. Further alleged that the 1st accused had transferred a sum of Rs.11,29,691/- through online and cheques in favour of the 3rd accused from the Account of Sara Traders. For those activities, 4th accused also helped other accused persons and conspired with other accused persons and misappropriated the money of Defacto-Complainant. Hence, the complaint.

3. On receipt of the said complaint, the first respondent did not register any case and as such the Defacto-complainant filed a direction petition before this court in Crl.OP.No.12683 of 2014, which was disposed of on 15.05.2014. Based on the said order of direction, the first respondent registered FIR in Cr.No.351 of 2014 for the offences under sections 406,409,420,468,471 r/w 120(b) of IPC. After completion of investigation, the first respondent filed a final report and same has been taken cognizance by the trial court in C.C.No.1411 of 2020.



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4. The learned counsel for the petitioner would submit that this petitioner is none other than the father of the 1st accused and this petitioner is 80 years old. Even according to the case of the prosecution, there is no specific allegation as against the petitioner, except the relationship of father of 1st accused. In fact, the 3rd accused is also brother of the 1st accused and he is in Dubai. At no point of time, he was there at the time of alleged crime committed by the 1st accused.

5. On perusal of the entire records revealed that the petitioner is arrayed as 4th accused. Though the 1st and 2nd accused committed very serious offences by misappropriating the amount to the tune of Rs.3,11,92,243/-, except the relationship of father, no specific allegation is made against this petitioner. On perusal of the final report, revealed that this petitioner helped the accused persons to do misappropriation from the Defacto-complainant. Further, the 1st accused started partnership firm along with his wife i.e., the 2nd accused in the name of defacto-complainant's one firm Sangam and misappropriated to the tune of Rs.3,11,92,243/-. Thereafter, a sum of Rs.11,29,691/- was transferred



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in favour of the 3rd accused. Insofar as the petitioner is concerned, he never involved in any of the offence committed by the other accused. This petitioner also conspired with Accused No.1 to 3 by accepting the words of Accused No.1. This would not attract any offence under section 120(b) of IPC, unless there is specific overtact. Therefore, the pendency of criminal proceedings as against this petitioner is nothing but clear abuse of process of law.

6. Therefore, the entire proceedings is liable to be quashed as against this petitioner alone. The learned Government Advocate (Crl.Side) submitted that 3rd accused absconded and Non-Bailable Warrant was issued and the same is pending as against the Accused No.3. Because of non appearance of the 3rd accused, the trial proceedings has not been taken up further by the trial court. Considering the said submission the Trial Court is directed to split up the case of Accused No.1 and 2 and complete the trial within a period of six months from the date of receipt of copy of this order.



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7. Therefore, proceedings in C.C.No.1411 of 2020 on the file of the learned Special Judge, CCB and CBCID at Egmore, Chennai cannot be sustained and liable to be quashed only against this petitioner alone. Therefore, C.C.No.1411 of 2020 on the file of the learned Special Judge, CCB and CBCID at Egmore, Chennai is hereby quashed only against this petitioner alone and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

23.11.2023

Internet: Yes

Index: Yes/No

Speaking/Non-speaking order
gvn

To

- 1) The Special Judge, CCB and CBCID at Egmore, Chennai
- 2) The Inspector of Police, Central Crime Branch, EDF-I, 2nd Team, Veperiy, Chennai-7.
- 3) The Public Prosecutor, High Court Madras.



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