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Crl OP No. 22396 / 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Criminal Original Petition No. 22396 of 2019
and
Crl.M.P. Nos. 11647 & 11648 of 2019

E. Senthil Kumar

... Petitioner

Versus

1.State: Represented by,
The Inspector of Police,
City Crime Branch,
Tiruppur City.

2.K. Gunasekaran

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records and quash the case in C.C. No. 263 of 2016 in the court of the Judicial Magistrate No.II, Tiruppur in Crime No.18 of 2014 on the file of the first respondent as against the petitioner.

For Petitioner : Mr. R. John Sathyan, Senior Counsel for
Mr. A. Kalaivanan.

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

Mr. J. Pothiraj for R2.



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ORDER

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This petition is to quash the final report filed for the alleged offence under Sections 468, 471, 420 & 120(B) of the Indian Penal Code.

2.It is alleged in the final report that the accused had fabricated a multicity cheque and obtained money through the first accused company; that the other accused aided and abetted the first accused; and that the amount of Rs.12,00,000/- was given to the petitioner herein who is arrayed as A7.

3.Mr. R. John Sathyan, learned counsel for the petitioner submitted that the statement of the witnesses would show that the petitioner is not involved in the offences. Even from the statements of LW1, LW2, LW5 and LW6, the petitioner's involvement in the alleged offence is not revealed; and that the petitioner is sought to be implicated on the confession of the co-accused. Hence, he prayed for quashing of the final report against the petitioner.

4.The learned counsel for the second respondent and the learned Additional Public Prosecutor submitted that the allegations and the points



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raised by the petitioner have to be adjudicated only before the trial Court since it is the case of the prosecution that out of Rs.44,00,000/-, Rs.12,00,000/- was paid to the petitioner.

5.This Court is of the view that it is no doubt true that if there is no evidence apart from the confession of the co-accused, the allegation against the petitioner cannot be proved. However, it is desirable to allow the trial Court to consider if there is any other evidence and take a decision. In such view of the matter, this Court is not inclined to entertain this petition. However, it is open to the petitioner to raise all his points before the trial Court.

6.With the above observations, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

28.06.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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SUNDER MOHAN, J

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To

- 1.The Inspector of Police,
City Crime Branch,
Tiruppur City.
- 2.The Judicial Magistrate No.II,
Tiruppur.
- 3.The Additional Public Prosecutor,
High Court of Madras,
Chennai.

Crl.O.P. No. 22396 of 2019
and
Crl.M.P. Nos. 11647 & 11648 of 2019



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