



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 15.03.2023
Pronounced on : 23.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.No.27402 of 2019

and

Crl.M.P.Nos.14566 and 14567 of 2019

P.Venkatesan

...Petitioner

Vs.

1.State represented by

Inspector of Police,
Central Crime Branch, Team - II
Vepery, Chennai
Cr.No.105 of 2016

2.Dr.N.Srinivasa Ragavan

... Respondents

Prayer: This Criminal Original Petition has been filed to call for the records in connection with C.C.No.5624 of 2019 on the file of the Metropolitan Magistrate for CCB and CBCID cases, Egmore, Chennai and quash the same.



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For Petitioner : Mr.V.M.R.Rajentren
For R1 : Mr.A.Damodaran
Additional Public Prosecutor
For R2 : No appearance

ORDER

The petition is to quash the final report filed for the alleged offences under Sections 420 r/w 34 of I.P.C.

2. It is alleged in the final report that the petitioner who is arrayed as A4 along with A2 and A3 introduced A1 stating that she was working in the Tamil Nadu Secretariat. They had also represented that A1 was highly influential and had obtained medical seats for several persons earlier. Based on the representation, the defacto complainant met A1 who had represented in the presence of A2 to A4 that she would get a seat in a medical college for the defacto complaint's son. The defacto complainant had paid Rs.30,00,000/- to A1 in the presence of other accused. It is further alleged that A1 took Rs.20,00,000/-, A2 took Rs.3,00,000/-, A3 took Rs.3,00,000/- and A4 took Rs.4,00,000/- out of the money paid to A1. It is further alleged that A1 did not obtain the seat as promised and when questioned about the



same, A2 had given three cheques each for Rs.10,00,000/- totally, Rs.30,00,000/- in the month of January 2016. However, when the cheques were presented for collection, they were dishonoured. The impugned final report hence was filed against the petitioner and three others for the offences u/s 420 r/w 34 IPC.

3.The learned counsel for the petitioner would submit that admittedly A1 had received the money. But in the impugned final report, it is stated that out of the said sum of Rs.30,00,000/- A4 had received Rs.4,00,000/-. This allegation is an improvement. In the FIR, there is no allegation that A4 had received money from defacto complainant or that A1 handed over the money to the defacto complainant. All the allegations are against A1 and therefore, the impugned final report as against A4 is an abuse of process of law and is liable to be quashed.

4.The learned Additional Public Prosecutor appearing for the first petitioner would submit that there are allegations against the present petitioner that he had introduced A1 to the defacto complainant along with A2 and A3. Further in the final report, the allegation is that A4 received Rs.4,00,000/- out of Rs.30,00,000/- received by A1. There is an evidence in the impugned final report to show that the money was shared by all the four accused. Hence, the quash petition has to be dismissed.



5. Though notice was served on the second respondent, none has entered appearance for the defacto complainant/second respondent.

6. Admittedly, the petitioner had introduced the defacto complainant to A1. It is alleged that A1 represented that she would obtain a medical seat to the defacto complainant's son, in a medical college in the presence of A2 to A4. The petitioner is sought to be prosecuted with the aid of Section 34 I.P.C. There is also an allegation to show that the money was handed over in the presence of A4 namely, the petitioner herein. As to whether, he shared the common intention with A1 is a matter which has to be adjudicated only during trial. Though the petitioner would state that he was not directly benefited, there are allegations in the final report stating that he had taken a portion namely Rs.4,00,000/- that was given to the first accused. The points raised by the petitioner is factual in nature which has to be decided in the trial. Hence, the quash petition is liable to be dismissed. However, it is needless to say that the trial Court shall independently consider the evidence adduced before it without being influenced by any of the observations made in this order.



7. With the above observation, this Criminal Original Petition is dismissed.

Consequently, the connected miscellaneous petitions are closed.

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23.03.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1. Metropolitan Magistrate for CCB and CBCID cases,
Egmore,
Chennai.

2. Inspector of Police,
Central Crime Branch, Team - II
Vepery, Chennai.

3. The Public Prosecutor
High Court of Madras,
Chennai.

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SUNDER MOHAN, J

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Pre-delivery order in

CrI.O.P.No.27402 of 2019

and

CrI.M.P.No.14566 and 14567 of 2019



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