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Crl.O.P.No.30268 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2023

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.30268 of 2022
and
Crl.M.P.Nos.18536 and 18537 of 2022

S.Akbar ... Petitioner

-VS-

1.The State represented by
The Inspector of Police,
E3, Minjur Police Station,
Minjur, Tiruvallur District.
(Ref Crime No.415 of 2022 dated 27.08.2022)

2.V V S N Rao ... Respondents

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for the records and quash the proceedings in connection with C.C.No.227 of 2022 on the file of the Judicial Magistrate Court No.II, at Ponneri for an offence under Sections 380 and 34 of IPC.

For Petitioner	...	Mr.C.Arun Kumar
For R-1	...	Mr.S.Santhosh Government Advocate (crl.side)
For R-2	...	Mr.Karthik Ranganathan



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ORDER

This Criminal Original Petition has been filed to call for the records and quash the proceedings in connection with C.C.No.227 of 2022 on the file of the Judicial Magistrate Court No.II, at Ponneri for an offence under Sections 380 and 34 of IPC.

2. Learned counsel for the petitioner submitted that, the respondent police filed a final report against the petitioner and other accused under Sections 380 and 34 of IPC. The brief facts, as seen from the final report filed in this case are that, the accused Sathishkumar is working as a Supervisor under UPL Contract in NTECL Company. A2 and A3 are also working under STC Contract in the same Company. A1 to A3, with the help of one Bathis Kumar, driver of lorry bearing No.TN-19-AP-8599 had committed theft of Rs.5,00,000/- worth iron scrapes and removed it from NTECL Company at about 12.55 pm on 27.08.2022. Therefore, all the accused were charged under Sections 380 of IPC.

3. It is submitted by learned counsel for the petitioner that, except confession statement of co-accused, there is no incriminating materials



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available against the petitioner to implicate him in this case. Even in the said confession statement of co-accused, the involvement of petitioner/A3 in the alleged theft of iron scrapes is not specifically mentioned. Therefore, he submitted that the case against the petitioner/A3 has to be quashed.

4. Learned counsel for the 2nd respondent submitted that, the co-accused namely Sathish Kumar has given statement implicating petitioner in the commission of theft. He further submitted that, one K.Sathish Kumar is the site incharge Supervisor to sign the gate pass permitting the trucks to take the scrap. In this case, petitioner signed the gate pass, for which he is not authorized.

5. Learned Government Advocate (Criminal side) submitted that, the role of the petitioner is clearly spoken by the co-accused in the confession statement. Thus, he prays for dismissal of this petition.

6. Considered the submissions and perused the records.



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7. On considering the materials produced in this case, the only incriminating material available, according to the respondents is the confession statement of the co-accused. The confession statement of co-accused given while he is in custody of police, cannot be used for any purpose except for a limited purpose of discovery of fact. Therefore, confession statement of co-accused cannot be relied in this case. With regard to the submission of the learned counsel for the 1st respondent that, one K.Sathish Kumar was the site incharge and he was the person authorized of signing the gate pass, however, in the case before hand, it was the petitioner who signed the gate pass. There is no material collected in support of this claim and to implicate the petitioner for the offence under Section 380 and 34 of IPC.

8. In such circumstances, continuation of criminal proceedings against the petitioner is abuse of process of law. In this view of the matter, proceedings in C.C.No.227 of 2022 on the file of the Judicial Magistrate Court No.II, at Ponneri for an offence under Sections 380 and 34 of IPC against the petitioner/A3 alone is quashed. Accordingly, this Criminal



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Original Petition is allowed. Consequently, the connected Miscellaneous
Petitions are closed.

14.02.2023

Index: Yes/No

Internet: Yes/No

Speaking/Non speaking order

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G.CHANDRASEKHARAN, J.

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To

- 1.The Judicial Magistrate Court No.II, at Ponneri
- 2.The Inspector of Police,
E3, Minjur Police Station,
Minjur, Tiruvallur District.
- 3.The Public Prosecutor,
High Court, Madras.

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