



CrI OP No. 30694 / 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

**Criminal Original Petition No. 30694 of 2019
and
CrI.M.P. No. 16662 of 2019**

R.Sudhir Pulchandani

... Petitioner

Versus

**1.State Rep., by
Inspector of Police,
Central Crime Branch,
EDF – III, Vepery,
Chennai – 600 007.**

2.Chandrasekaran

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records pertaining to the proceedings pending in C.C. No. 162 of 2019 on the file of the learned Judicial Magistrate No.I, Poonamallee and quash the same.

For petitioner : Mr. M. Sasikumar.

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



Crl OP No. 30694 / 2019

No appearance for R2.

ORDER

The Petition is to quash the final report for the offence under Sections 406, 465, 468, 471, 420 read with 120 (b) of the Indian Penal Code.

2.It is alleged in the final report that the petitioner who is the fourth accused had introduced the first accused and the third accused to the defacto complainant; that the defacto complainant and the first accused had entered into High Seas Sale Agreement and for purchase of heavy melding scrap at the rate of Rs.22,500/- per ton; that the defacto complainant had paid an advance of Rs.43,00,000/- on 28.12.2011 to the first accused and; that when the scrap was sent to the defacto complainant in ten containers, it was found that there was a shortage of 189 metric tons; that the first and third accused admitted to the said shortage of the scrap material and agreed to repay Rs.48,00,000/- received from the defacto complainant. The accused issued two cheques for Rs.35,00,000/- and Rs.30,00,000/- on 30.04.2012 and 15.05.2012 respectively; that the said cheques, when presented for collection was dishonoured; that all the accused entered into a conspiracy of cheating



Crl OP No. 30694 / 2019

the defacto complainant by sending only 49.75 instead of 238.95 metric tons.

3.The learned counsel for the petitioner submits that the only allegation against the petitioner / A4 is that he had introduced the defacto complainant to the accused 1 to 3 who are running a company called M/s.Ujway enterprises; that even accepting the allegations in the impugned final report, no offence is made out against the petitioner. The learned counsel further submits that in any event the defacto complainant himself has given a statement before the respondent police on 01.10.2012 which is a part of the final report wherein he had stated that he by mistake had included the petitioner in the complaint and; that the petitioner had shared with him certain e-mail communications which would show that the petitioner had nothing to do with the alleged offence or the other accused. The learned counsel further submitted that this fact is also mentioned by the respondent police in the impugned final report. Thus, the learned counsel submits that the impugned final report is an abuse of process as against the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent police submitted that the allegations against the petitioner



Crl OP No. 30694 / 2019

have to be adjudicated only before the trial Court. The question whether the petitioner is a conspirator or not has to be adjudicated only before the trial Court and this Court may not entertain the quash petition.

5. Though notice was sent to the second respondent and summons was served on him and his name is printed in the cause list, the second respondent has not chosen to enter appearance.

6. This Court on reading of the impugned final report finds that the only allegation against this petitioner is that he had introduced A1 and A3 to the defacto complainant. The reading of the final report shows that A1 and A3 had independently entered into High Seas Sale Agreement dated 25.11.2011. The petitioner had nothing to do with the said agreement. Further the allegation is that the accused 1 and 3 had supplied materials which were less than the agreed quantity and therefore, they had committed cheating. There is nothing in the impugned final report to show that the petitioner had any role in the offence. That apart, this Court finds that the defacto complainant had stated before the respondent subsequently that the petitioner had no role in the alleged offence. The impugned final report, thus is liable to be quashed not only



Crl OP No. 30694 / 2019

because the allegations against the petitioner do not constitute the offence alleged but also because of the categorical statement made by the defacto complainant which is part of the final report.

7. For all the above reasons, the impugned final report as against the petitioner alone is quashed and this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

31.03.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1. The Inspector of Police,
Central Crime Branch,
EDF – III, Vepery,
Chennai – 600 007.
2. The Judicial Magistrate No.I,
Poonamallee.
3. The Additional Public Prosecutor,
High Court of Madras,
Chennai.



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Crl OP No. 30694 / 2019

SUNDER MOHAN, J

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