



CrI.O.P.No.32840 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 20.04.2023

Pronounced on : 25.04.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CrI.O.P.No.32840 of 2019

and

CrI.M.P.Nos.18110 and 18111 of 2019

Jothi Lakshmi

... Petitioner/A2

Vs.

1.The State

Rep by its Inspector of Police

Central Crime Branch (CCB)

Tirupur City

Tiruppur District

(FIR No.28/2018)

...1st Respondent/Complainant

2.Jegaratchagan

...2nd Respondent/Defacto complainant



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PRAYER: Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the filing of the Final Report/Charge Sheet No.FR-19/2019 dated 18.09.2019 in FIR No.28/2018 on the file of CCB, Tiruppur City District in C.C.No.647 of 219 on the file of Judicial Magistrate Court No-I, Tiruppur and to quash the C.C.No.647 of 2019 on the file of the Judicial Magistrate Court No-I, Tiruppur filed against the petitioner herein/Accused No.2.

For Petitioner : Mr.B.Kumar
Senior Counsel for
Mr.A.Kalaivanan
Mr.G.Rajan

For R1 : Mr.A.Damodaran
Additional Public Prosecutor

For R2 : Mr.J.Pothiraj

ORDER

The petition is to quash the final report filed for the alleged offences under Sections 120 B, 467, 468, 471 and 420 IPC.

2. It is alleged in the final report that the accused had obtained a loan from the State Bank of Mysore; that they had forged a



Memorandum relating to the deposit of Title Deeds, making it appear that it was registered as Document No.1083 of 2008; that A1 had created a forged Sale Deed dated 12.05.1982; that they had obtained a total loan of Rs.1,03,00,000/- (Rupees One Crore Three Lakhs only) producing such forged documents in connivance with the Bank officials and hence committed the above said offences.

3. The Petitioner is arrayed as A2 in the final report. Mr.B.Kumar, the learned Senior counsel for the petitioner/A2, submitted that the allegation is that A1, A4 and A5 had created a false document and made it appear that a Memorandum relating to the deposit of Title Deeds was executed on 24.06.2008 by Document No.1083 of 2008. The petitioner had nothing to do with the alleged forgery, admittedly, though she was a partner of the Firm by the name of Thanush Packaging Industries, which had availed the loan. The learned Senior Counsel further submitted that the Hon'ble Apex Court *Sheila Sebastian vs. R.Jawaharaj and another* reported in **(2018) 7 SCC 581** held that unless there is an investigation with regard to who committed the forgery, the charge of forgery cannot be imposed on persons, even if the accused is the beneficiary. The learned Senior Counsel further submitted that there is absolutely no



evidence against the petitioner to show that she was involved in any of the offences.

4. Mr. A.Damodaran, the learned Additional Public Prosecutor appearing for the first respondent/complainant and Mr. J.Pothiraj, the learned counsel for the second respondent/defacto complainant, on the contrary, submitted that the petitioner is a partner in the firm by the name Thanush Packaging Industries; that the petitioner is one of the applicants who had signed the loan application form. The forgery and the loan obtained on the basis of a false document are acts of conspiracy in which the petitioner is also involved. The question as to whether the petitioner is involved in the conspiracy or not is a matter for evidence and cannot be adjudicated in the quash petition. Hence, they prayed for the dismissal of the quash petition.

5. This Court finds that the allegation against the petitioner is that she was a partner of Thanush Packaging Industries and she had conspired with other accused to commit the offences of forgery and obtain a loan based on such forged documents. The role played by the petitioner according to the prosecution, is that she had signed the



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application form for the loan. Therefore, this Court is of the view that the question of whether the petitioner is involved in the conspiracy or not cannot be gone into the quash petition. It is needless to say that it is for the prosecution to establish the offence of forgery and who committed the said offence besides the offence of conspiracy in the trial.

6. In such view of the matter, this Court is not inclined to entertain this quash petition. However, the petitioner is at liberty to raise all the points before the Trial Court. Hence, the Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petitions are closed.

25.04.2023

dk

NCC: Yes/No

Index : Yes/No

Speaking/Non Speaking Order



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To

1.The Inspector of Police
Central Crime Branch (CCB)
Tirupur City
Tiruppur District.

2.The Public Prosecutor
High Court of Madras
Chennai – 600 104.



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SUNDER MOHAN. J,
dk

Pre Delivery Order in
CrI.O.P.No.32840 of 2019
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