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Crl OP No. 32862 / 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Criminal Original Petition No. 32862 of 2019
and
Crl.M.P. No. 18124 of 2019

Mr. Abul Kalam

... Petitioner

Versus

1. State rep., by
The Inspector of Police,
Anti Document Fraud, Team – 5,
Central Crime Branch,
Vepery, Chennai – 7.

2. Mr. Kevin Wynes

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records in C.C. No. 7416 of 2017 pending on the file of the learned Metropolitan Magistrate for CCB & CBCID Cases at Egmore, Chennai – 08 and quash the same.

For Petitioner : Mr. M. Anandraj.

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

R2 – Notice served.



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ORDER

This Criminal Original Petition has been filed to quash the C.C. No. 7416 of 2017 for the offence under Sections 420 and 511 of the Indian Penal Code pending on the file of the learned Metropolitan Magistrate for CCB & CBCID Cases at Egmore, Chennai.

2. It is alleged that the second accused had applied for a U.S. Visa and had produced certain fake documents in order to obtain the same. This was found out by the Consulate authorities and during investigation, the second accused had given a confession stating that documents were prepared by the petitioner who is arrayed as A1 in the case. Hence, the case has been registered against them for the alleged offence under Sections 420 and 511 of the Indian Penal Code.

3. The learned counsel for the petitioner submitted that the only allegation against the petitioner who has been arrayed as A1 is that he has prepared certain forged documents at the instance of A2 who had applied for U.S. Visa. The only material available in the entire final report is the confession statement of A2. No documents were seized from



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the petitioner. There are no materials to connect the petitioner with the alleged forged documents produced by A2.

4. Though notice was served to the second respondent / defacto complainant and the name has been printed in the cause list, none has entered appearance on behalf of the second respondent / defacto complainant.

5. The learned Additional Public Prosecutor appearing for the first respondent submitted that the second accused is no more. He would fairly admit that the case against the petitioner is based on the confession statement of A2.

6. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent and perused the records.

7. This Court on perusal of the impugned final report and the statements in support of the impugned final report finds that A2 had applied for Visa and had produced certain forged documents in support of his application for Visa. During investigation, it appears that he had



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given a confession statement. The petitioner is sought to be implicated on the basis of the confession statement. That apart, admittedly, the second accused is no more. Even otherwise in the absence of any material to connect the petitioner with the offence of cheating, dehors the confession statement of the co-accused, there is no possibility of conviction before the trial Court. In such circumstances, the impugned proceedings are liable to be quashed.

8. Accordingly, this Criminal Original Petition is allowed by quashing the proceedings in C.C. No. 7416 of 2017 pending on the file of the learned Metropolitan Magistrate for CCB & CBCID Cases at Egmore, Chennai – 08. Consequently, the connected Miscellaneous Petition is closed.

14.03.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To



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1. The Inspector of Police,
Anti Document Fraud, Team – 5,
Central Crime Branch,
Vepery, Chennai – 7.
2. The Metropolitan Magistrate,
CCB & CBCID cases,
Egmore, Chennai.
3. The Additional Public Prosecutor,
High Court of Madras,
Chennai.



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SUNDER MOHAN, J

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