



Crl.O.P(MD)No.3801 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 12.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD)No.3801 of 2020
and
Crl.M.P(MD)Nos.2064 & 2066 of 2020

Selvam

.. Petitioners/A6

Vs.

1.State through the Sub Inspector of Police,
CCIW Crime Police Station,
Madurai City,
Madurai.
(Crime No.1/2018)

.. 1st Respondent/Complainant

2.RMS Vinayagar

.. 2nd Respondents/Defacto
Complainant

Prayer: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to C.C.No.1314/2019 pending on the file of the learned Judicial Magistrate No.III, Madurai, Madurai District and quash the same.



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For Petitioner : Mr.R.Babu Jaganath

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor for R1

: R2 No appearance

ORDER

The petitioner seeks quashing of final report filed under Sections 420, 467, 468, 471, 473, 120B and 419 IPC in C.C.No.1314/2019.

2.The case of the prosecution is that in order to cheat the Co-operative Society, the accused in the above case created documents to make it appear that the loan obtained from one Pandian Co-operative Society, No.A2248, Arasaradi, Madurai, was repaid and thereafter sold the property mortgaged to the Co-operative Society. The allegation against this petitioner is that he had identified an unknown person as the Secretary of the Co-operative Society, who had signed in the sale receipt in which it is alleged that the signature of the Secretary was forged.



3.The learned counsel for the petitioner submitted that he has nothing to do with the alleged offence. He was not a beneficiary and there is nothing in the charge sheet to suggest that he had gained out of this transaction. L.W.13 Kannan, who is the father of the petitioner had stated in his statement recorded under Section 161(3) Cr.P.C., that the petitioner had signed only at the instigation of A5, Vijaya Rajamani. According to the learned counsel for the petitioner, this was at the instance of another accused and he had innocently put signature in the said document.

4. The learned Additional Public Prosecutor submitted that the document in which the petitioner has signed is an important document, which is a receipt in which the signature of the Secretary of the Co-operative Society was forged. But for this document, the Registrar would not have accepted the registration to the question whether the petitioner signed it innocently or with motive is a question of fact and hence prayed for dismissal of the quash petition.

5. The learned counsel for the defacto complainant reiterated the submissions of the learned Additional Public Prosecutor.



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6. This Court is of the view that the points raised by the learned counsel for the petitioner is factual in nature and cannot be adjudicated in a quash petition. It is open to the petitioner to raise all these contentions before the trial Court. Hence, this Court is not inclined to entertain this quash petition.

7. The learned Magistrate is directed to conduct the trial and complete it in an expeditious manner. The presence of the petitioner may be dispensed with before the trial Court unless the learned Magistrate deems his presence necessary for the progress of the trial.

8. With the above direction, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

12.01.2023

NCC :Yes/No
Index : Yes/No
Internet :Yes/No

PJL

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To

1.The Sub Inspector of Police,
CCIW Crime Police Station,
Madurai City,
Madurai.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN,J.

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12.01.2023