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Crl.O.P.(MD) No.14300 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	11.10.2023
Pronounced on	22.12.2023

CORAM

THE HONOURABLE **MR.JUSTICE R.SAKTHIVEL**

Crl.O.P.(MD) No.14300 of 2020

and

Crl.M.P.(MD) No.6655 of 2020

Chitradevi

... Petitioner

Vs.

1.State represented by
Inspector of Police,
District Crime Branch,
Cr. No.23/2011,
Karur District.

2.K.Nagarajan

... Respondents

This Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records relating to the case in C.C.No.235 of 2015 on the file of the Judicial Magistrate No.1, Karur and quash the same in respect of the petitioner alone.

For Petitioner : Mr.K.Suresh

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

For R2 : No appearance



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ORDER

This Criminal Original Petition has been presented on December 1st, 2020 praying to call for the records relating to the case in C.C.No.235 of 2015 on the file of the Judicial Magistrate No.1, Karur and quash the same in respect of the petitioner herein alone.

2. Heard Mr.K.Suresh, the learned counsel for the petitioner (A2) and Mr.R.Meenakshi Sundaram, the learned Additional Public Prosecutor for the first respondent-State. There is no representation for the second respondent.

3. Based on the complaint given by the second respondent/*de facto* complaint, the first respondent registered a case against the petitioner (A2) and her husband Paramanandham under Sections 120(b), 403, 468, 471, 477(A) and 420 of the 'Indian Penal Code, 1860 (Act No.45 of 1860)' [henceforth 'IPC' for the sake of brevity] in Crime No.23/2011, in which, the petitioner has been arrayed as 'Accused No.2' [henceforth 'A2' for the sake of brevity] and her husband has been arrayed as 'Accused No. 1' [henceforth 'A1' for the sake of brevity].



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4. Brief facts of the case are thus:-

The second respondent/*defacto* complainant and his brothers are running 'M/s.Premier Textiles' and 'M/s.Premier India' doing textile export business. A1 was working as a Cashier for both the concerns. A1 *qua* Cashier used to withdraw cash from bank through Cheques signed by the partners of the company. Taking advantage of the same, A1 has forged the signatures of the second respondent/*defacto* complainant and obtained a cheque book. Thereafter, by forging signatures in those cheques, he has drawn various amounts totalling to the tune of Rs. 4,20,000/- from the current accounts of both the concerns without the knowledge of the second respondent/*defacto* complainant and other partners. According to the second respondent/*defacto* complainant, the wife of A1 i.e., the petitioner herein (A2) was accomplice for the misappropriation of money. Therefore, the second respondent/*defacto* complainant lodged a complaint against both of them, based on which, an FIR has been registered against A2 and A1.

5. The Investigation Officer has examined 9 witnesses (L.W.1 to L.W.9) and recorded their Statements under Section 161(3) of the Code of Criminal Procedure, 1973 (Act No.2 of 1974) [henceforth 'Cr.P.C.' for the



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sake of brevity]. After investigation, the Investigation Officer altered Sections from 120(b), 403, 468, 471, 477(A) and 420 of IPC to 403, 468, 471, 477(A) and 420 of IPC against A1; and 403, 468, 471, 477(A) and 420 of IPC r/w. 34 of IPC against A2 and filed Charge Sheet dated February 27th, 2015 along with Alteration Report before the Judicial Magistrate Court No.I, Karur District.

6. The learned Judicial Magistrate No.I, Karur has taken the case on file as C.C.No.235 of 2015. A2 has filed this Criminal Original Petition under Section 482 of Cr.P.C. to quash the said C.C. in respect of A2 alone.

7. To be noted, on October 11th, 2023 when this matter was taken up for hearing, the learned counsels for either side submitted that trial has commenced in C.C.No.235 of 2015, 8 witnesses have been examined, A1 has not cross-examined any of the 8 witnesses and the case has been posted to October 13th, 2023.

8. The learned counsel for the petitioner (A2) submitted that the allegations levelled against A2 in the complaint are false and incorrect;



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that A2 is a home maker and she has nothing to do with any of the official activities of her husband (A1); that the case has been registered under Section 120(b) along with other Sections of IPC for the purpose of implicating A2 and none of the witnesses examined by the Investigation Officer has spoken about any conspiracy and therefore, Section 120(b) was deleted; that none of the 8 witnesses have spoken about the role of the petitioner (A2) except by saying A2 assisted A1.

9. Further, he submitted that, even while assuming the Statements of the witnesses to be true, no offence would be made out against A2 and that Section 34 of IPC has been falsely invoked only with a view to harass A2 in this case. Accordingly, he prayed to allow this Criminal Original Petition and quash C.C.No.235 of 2015 in respect of the petitioner alone. In support of his arguments, he relied on the following authorities:

- i. **Ramaswami Ayyangar and others Vs. State of Tamil Nadu**, reported in (1976) 3 SCC 779.
- ii. **Virendra Singh Vs. State of Madhya Pradesh**, reported in (2010) 8 SCC 407.

10. Mr.K.Suresh, the learned Additional Public Prosecutor appearing for the first respondent-State submitted that there are sufficient



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material available on record to implicate A2 in this case and that trial has commenced and 8 witnesses have been examined as on October 11th, 2023. He further submitted that the prosecution has ample and sufficient evidence including FSL Report to prove the offence of forgery and misappropriation against A1 in which A2 is an accomplice. In support of his contention, he relied on the decision of the Hon'ble Supreme Court in ***Chilakamarthi Venkateswarlu and another Vs. State of Andhra Pradesh and another***, reported in ***(2020) 17 SCC 595***. Accordingly, he prayed to dismiss this Criminal Original Petition.

11. This Court has perused the case file and Statements of the witnesses under section 161(3) of Cr.P.C.

12. To be noted, in the Alteration Report dated February 27th, 2015 filed by the Investigation Officer, he has stated that the petitioner (A2) was an accomplice for the misappropriation of money, however, there is no material on record to connect A2 with the alleged forgery and misappropriation of money. A2 was a home maker and she was not involved in the official affairs of the second respondent/defacto complainant's concerns. Further, there is no material on record to show



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that A2 has benefitted from the alleged forgery and misappropriation of money. The only statement available on record against the petitioner (A2)

is “... பிறகு சித்ராதேவி மற்றும் பரமானந்தத்திடம் ஏன் பொய் புகார் கொடுத்தீர்கள் என்று கேட்டதற்கு அவர்கள் இருவரும் பணத்தை திருப்பிக் கேட்டால் பல பொய் புகார்களை அனைத்து மகளிர் காவல் நிலையத்தில் கொடுத்து ஜெயிலில் தள்ளிவிடுவோம் என்று மிரட்டி விட்டு சென்றார்கள். ...” To be noted, charge-sheet does not contain Section 506 of IPC charge against the petitioner (A2).

13. Even while assuming the allegations made in the charge-sheet to be true, no *prima facie* case has been made out against A2. There are no sufficient materials to connect A2 with the alleged forgery and misappropriation. Hence, the trial against the petitioner is a futile exercise and therefore, liable to be quashed.

14. It is made clear that this Court is inclined to quash the case in C.C.No.235 of 2015 against the petitioner (A2) alone. There are sufficient materials on record to proceed against A1. Hence, the learned Judicial Magistrate No.I, Karur shall proceed with C.C.No.235 of 2015 against A1 as per law untrammelled or uninfluenced by this Order.



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WEB COPY 15. Resultantly,

- i. This Criminal Original Petition is allowed.
- ii. The case in C.C.No.235 of 2015 on the file of the learned Judicial Magistrate No.I, Karur is quashed with respect to the petitioner herein (A2) alone.
- iii. No cost.
- iv. Consequently, Crl.M.P.(MD) No.6655 of 2020 filed for stay is closed.

22.12.2023

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

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To

1.The Judicial Magistrate No.1, Karur.

2.The Inspector of Police,
District Crime Branch,
Karur District.



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R.SAKTHIVEL, J.

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Pre-Delivery Order made in
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and
Crl.M.P.(MD) No.6655 of 2020

22.12.2023