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Crl.O.P(MD).No.13930 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 14.07.2023

Pronounced on : 24.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.13930 of 2019

and

Crl.M.P(MD) Nos.8486 and 8487 of 2019

Selvaraj

...Petitioner

Vs

1.The Inspector of Police
Karaikudi North Police Station,
Karaikudi, Sivangangai District.

2.Manimuthu

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records relating to C.C. No.420 of 2018 on the file of the Principal District Munsif cum Judicial Magistrate Court, Karaikudi, Sivagangai District

For Petitioner : Mr.V.Karuna

For R-1 : Mr.M.Sakthi Kumar
Government Advocate(Crl.Side)

For R-2 : Mr.S.Palanivelayutham



ORDER

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This Criminal Original Petition has been filed to quash the proceedings in C.C. No.420 of 2018 on the file of the learned Principal District Munsif cum Judicial Magistrate, Karaikudi, Sivagangai District.

2. According to the petitioner the second respondent/defacto complainant preferred a criminal complaint dated 24.04.2018 against A1 and A2 for the alleged offences under Sections 120(B), 294(b), 406, 420 and 506(i) of IPC. It was alleged that the second respondent/defacto complainant sold his property to the first accused on 15.05.2017 by way of registered sale deed. A1 and A2 did not pay the sale consideration, despite they issued bank cheques. After lapse of 11 months the second respondent/defacto complainant approached A1 and A2 for payment on 24.04.2018 and at that time A1 and A2 threatened him. Thereafter the second respondent/defaco complainant preferred a complaint before the first respondent. During the course of investigation A1 and A2 were arrested and based on the confession statement given by them this petitioner was implicated as an accused in to the offence and charge sheet was laid under section 120(B) of IPC against this petitioner. Originally three complaints were received by the first respondent on 24.04.2018 in Crime Nos.152,153 and 154 of 2018 and charge sheet was filed in all the three cases and also taken on file in C.C. Nos.420,421 and 422 of 2018. Infact the petitioner was not



involved in the above incident and only based on the confession statement given by the co-accused this petitioner has been implicated as an accused.

3. The learned counsel appearing for the petitioner contended that the second respondent has given complaint against one Pavulin and Senthil. After investigation and based on the confession statement given by them this petitioner has been implicated as one of the accused for conspiracy. Further no conspiracy has taken place as alleged in the final report. The confession statement given by the co-accused to the police officer is inadmissible in evidence and thereby is no *iota* of materials as against this petitioner. Even as per the complaint there is no allegation as against the petitioner herein. Therefore he need not face the trial for the above said offence, hence the proceedings has to be quashed.

4. The learned Government Advocate(Crl.Side) appearing for the first respondent would contend that originally the First Information Report has been registered as against two accused persons and based on the confession statement given by them this petitioner has been implicated as an accused. Since this petitioner has also conspired with the other accused and committed forgery and so many cases have



been registered as against the petitioner, hence this petition has to be dismissed and the petitioner has to face the trial before the trial Court.

5. The learned counsel appearing for the second respondent/defacto complainant also contended the same as contended by the learned Government Advocate(Crl.Side)

6. Heard both sides and perused the materials available on record.

7. The main contention of the petitioner is that there is no material available as against the petitioner herein to implicate him as an accused. On perusal of the record neither the complainant nor the prosecution witnesses stated about the involvement of this petitioner in the crime and no material was available to show the involvement of the accused in this Crime. Only based on the confession statement given by the co-accused before the police officer this petitioner has been implicated as an accused and there is no recovery of money either from this petitioner or from the other accused. It is well settled law that confession statement given before the police officer is inadmissible. But the statement given by the accused with regard to discovery of a fact is admissible. More over in this case no any material recovered



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based on the confession statement. Except the confession statement of the co-accused there is no material available to implicate the petitioner herein as an accused, therefore without any material the petitioner need not face the ordeal trail . Except the bald allegation there is no other materials available to prosecute as against the petitioner and already this Court in CrI.O.P(MD) No.13703 of 2019 quashed the C.C. No.422 of 2018 in connected case as against this petitioner. Hence the charge sheet is liable to be quashed.

8. Accordingly this Criminal Original Petition is allowed and the proceedings in C.C. No.420 of 2018 on the file of the learned District Munsif cum Judicial Magistrate, Karaikudi, Sivagangai District is hereby quashed as against this petitioner. Consequently connected miscellaneous petitions are closed.

24.07.2023

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

- 1.The District Munsif cum Judicial Magistrate, Karaikudi, Sivagangai
- 2.The Inspector of Police
Karaikudi North Police Station,
Karaikudi, Sivangangai District.
3. The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai



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P. DHANABAL,J.

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