



CrI.O.P.(MD)No.1639 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.(MD) No.1639 of 2022 and
CrI.M.P.(MD).Nos.1185 and 1186 of 2022

Ramkumar

... Petitioner/Accused No.5

Vs.

1.State rep.
the Inspector of Police,
Central Crime Branch
Madurai City
(Crime No.65 of 2005)

2.The Assistant Manager,
TASMAC Limited
Madurai District.

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in C.C.No.67 of 2009, on the file of the learned Judicial Magistrate, No.I, Madurai and quash the same.

For petitioner
For R-1

: Mr.M.Ramu
: Mr.S.S.Madhavan,
Government Advocate
(Criminal Side)

For R-2

: No Appearance

ORDER

This petition has been filed seeking to quash the charge sheet in C.C.No.67 of 2009 for the offence punishable under Sections



409 and 420 IPC on the file of the learned Judicial Magistrate, No, Madurai.

2. The case of the prosecution is that the petitioner is an employee of TASMACH and in the year 2005, a complaint came to be lodged by the 2nd respondent as if the petitioner along with others misappropriated a sum of Rs.4,96,726/- and on completion of investigation, charge sheet came to be filed in CC No.67/2009 before the trial court for offences under sections 409 and 420 IPC.

3. The learned counsel for the petitioner would submit that though a complaint has been preferred as if the petitioner along with others has misappropriated the said amount, on demand from the authorities, the petitioner had repaid the demand amount. It is further submitted that the respondent police have deleted the names of the accused persons those who have repaid, however, they have not deleted the name of the petitioner and they filed charge sheet as against the petitioner.

4. The learned Government Advocate (Crl. Side) would submit that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal



proceedings cannot be quashed and the charges against the petitioner have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5. In the above circumstances, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioner, if he is subjected to due trial as sufficient opportunity would be given to him to put forth his defence. The petitioner cannot be let by quashing the charges framed against him as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against him. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)*** wherein, the Hon'ble Apex Court held as under :

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, which we have extracted illustration wherein such power could be exercised either to prevent abuse of the process of



any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

(1) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a



Magistrate as contemplated under Section 155(2) of the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

6. For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.67 of 2009, pending on the file of the learned Judicial Magistrate, No.I, Madurai. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petitions are dismissed.



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7. The learned counsel appearing for the petitioners submitted that this Court may consider dispensing with the personal appearance of the petitioners before the court below. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

23.01.2024

Index : Yes/No

Internet : Yes/No

RR

To

1. The Judicial Magistrate, No.II, Madurai.

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

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



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M.DHANDAPANI. J.

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