



Crl.O.P.(MD)No.1564 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2024

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.1564 of 2023
and Crl.M.P.(MD) No.1341 of 2023

S.Joseph

... Petitioner

Vs.

1.The Inspector of Police,
Devakottai Town Police Station,
Sivagangai District.
Crime No. 125 of 2019.

2. Kottaisamy

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in connection with the charge sheet filed in PRC No.06/2022 pending on the file of the Learned Judicial Magistrate, Devakottai and quash the same.

For Petitioners : Mr.G.Thalaimutharasu

For Respondents : Mr.A.Albert James
Government Advocate (Crl. Side)
for R1
Mr.K.C.Maniyarasu for R2



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Crl.O.P.(MD)No.1564 of 2023

ORDER

This petition has been filed to quash the proceedings pending in P.R.C.6 of 2022 on the file of the learned Judicial Magistrate, Devakottai.

2.The case of the prosecution is that the second respondent is working as a Tasmac Salesman. On 25.05.2019 at about 9.10 p.m., A1 is said to have visited the Tasmac shop and asked for change for Rs. 2000/-. Rs.2000/- note was given to the defacto complainant. On seeing it, he doubted whether it is a genuine currency note and on further probe, A1 informed that it is only the petitioner (A2) who had given the counterfeit note and asked A1 to get change and out of the same, some money was promised to be given to A1. Based on this complaint, an FIR came to be registered in Crime No.125 of 2019 for offence under Sections 489B and 489C of IPC. The petitioner was shown as A2.

3.On completion of investigation, a police report was filed before the learned Judicial Magistrate, Devakottai for offence under



Crl.O.P.(MD)No.1564 of 2023

Sections 489B and 489C of IPC. The learned Judicial Magistrate has taken cognizance of the police report and has issued process to the accused persons. The petitioner (A2) aggrieved by the same has filed the present quash petition before this Court.

4.Heard the learned counsel for the petitioner, the learned Government Advocate appearing on behalf of the first respondent and the learned counsel for the second respondent.

5.In order to constitute an offence under Sections 489B and 489C, it must be established that the accused person knew or had reason to believe that the currency notes or bank notes are forged, or counterfeit. Without this *mens rea*, selling, buying or receiving from another person or otherwise trafficking in or using as genuine forged or counterfeit currency note or bank note, is not enough to constitute offence under Sections 489B of IPC. In the same manner, possessing or intending to use any forged or counterfeit currency notes is not sufficient to make out a case under Section 489C, in the absence of *mens rea*.



Crl.O.P.(MD)No.1564 of 2023

6.In the case in hand, the prosecution has come up with the version that A1 had the *mens rea* and he knew that Rs.2000/- currency note was a counterfeit note and he attempted to give it to the Tasmac salesman and get change and convert it into a genuine note. It is also clear from the materials placed before this Court that the counterfeit note that was seized was sent to the forensic science department and a report was received to the effect that the currency note was a counterfeit note. It has also been spoken to by LW6, who is an expert witness. To that extent, there is a *prima facie* case as against A1. Insofar as the petitioner (A2) is concerned, except for the confession of A1 to the effect that it is only the petitioner who asked A1 to get the change for the counterfeit note, there is not even a scrap of material to proceed against the petitioner. The confession of a co-accused by itself is a very weak piece of evidence. There must be other materials to substantiate the fact and to corroborate the same, the confession of the co-accused can be taken note of. The police have not recovered any other counterfeit note from the petitioner and no printing machine etc., has been seized from the petitioner and there is also no material to show from where the petitioner was getting the counterfeit note. Therefore, it is quite evident that the



Crl.O.P.(MD)No.1564 of 2023

prosecution wants to proceed further against the petitioner only based on the confession of the co-accused.

7.In the light of the above discussion, the continuation of the proceedings against the petitioner (A2) will result in abuse of process of law which requires the interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C. Accordingly, the proceedings in P.R.C.6 of 2022 on the file of the learned Judicial Magistrate, Devakottai, is hereby quashed insofar as the petitioner is concerned. The Court below shall continue with the case insofar as A1 is concerned and the matter shall be committed to the concerned Sessions Court and the entire case shall be completed within a period of six months thereafter. Consequently, connected miscellaneous petition is closed.

13.12.2024

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



Crl.O.P.(MD)No.1564 of 2023

WEB COPY To

- 1.The Inspector of Police,
Devakottai Town Police Station,
Sivagangai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court.



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Crl.O.P.(MD)No.1564 of 2023

N.ANAND VENKATESH,J.

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CrI.O.P.(MD)No.1564 of 2023

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