



Crl.O.P.(MD) No.12421 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2024

CORAM

THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.12421 of 2020

and

Crl.M.P.(MD) Nos.5602 & 5603 of 2020

SVR Manohar

... Petitioner

Vs.

1.State Represented by
The Sub-Inspector of Police,
Woraiyur Police Station,
Crime No.31 of 2017,
Trichirappalli District.

2.Dhayalan
Sub-Inspector of Police,
Woraiyur Police Station,
Tiruchirappalli District.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records in S.T.C.No.3908 of 2019, on the file of the Judicial Magistrate No.IV, Tiruchirappalli, and quash the same as against this petitioner.

For Petitioner : Mr.K.Jeyamohan

For R1 : Mr.R.M.Anbunithi
Additional Public Prosecutor



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For R2

: No appearance

ORDER

Challenging the final report filed by the police in S.T.C.No.3908 of 2019 on the file of the Judicial Magistrate Court No.IV, Tiruchirappalli, the present Criminal Original Petition is filed.

2. The petitioner is facing trial for the offences punishable under Sections 7(3) of the Lotteries Regulation Act, 1998 read with Section 109 of IPC.

3. Mr.K.Jeyamohan, learned counsel for the petitioner would contend that except the confession of the co-accused, there are no other materials to show that the present petitioner was involved in selling lottery tickets. He therefore prayed for quashing S.T.C.No.3908 of 2019.

4. Per contra, Mr.R.M.Anbunithi, learned Additional Public Prosecutor appearing for the first respondent would contend that the Sub-



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Inspector of Police, Woraiyur Police Station, Tiruchirappalli District after conducting proper investigation had laid the final report against the accused and therefore, there is no good ground to quash the final report.

5. A perusal of the final report shows that on 04.01.2017, at about 13.00 hours, the accused 1 Thangappan was found selling lottery tickets near VNP Street Junction, Thenoor High Road and he was immediately arrested and his confessional statement was recorded by the police. The police after conducting investigation found that the petitioner/accused 2 was also involved in selling lottery tickets and therefore he was arrested. Thereafter, a final report in S.T.C.No.3908 of 2019 was filed by the police against both the accused.

6. The learned Judicial Magistrate No.IV, Tiruchirappalli after perusing Section 161(3) of Cr.P.C. statements and connected documents had taken cognizance of the offence and the case now stands posted for examination of witnesses. In fact, the Investigation Officer in the final report had stated that the accused 1 used to purchase lottery tickets from the petitioner/accused 2 and sell the same to several persons. Though the confession of the accused 1 is one of the factors, the investigation by the



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police in this case also is crucial. It is for the Magistrate to find out the real facts. The trial has also commenced in this case.

7. Section 30 of the Indian Evidence Act, 1872 says that the Court may consider the confession of co-accused as evidence. However, a confession by a co-accused cannot be treated in the same way as the testimony of an accomplice. Evidence of a co-accused is a very weak piece of evidence and it can be used only to corroborate other evidence. Though a conviction cannot solely be based on the confession of the co-accused, the same cannot be a ground to quash the entire criminal proceedings/trial in a court of law. The principle is that where there is evidence against the co-accused which is sufficient and if the Court believes to support his conviction, then the confession of co-accused described under Section 30 of the Indian Evidence Act may be used as an additional reason for believing that evidence. Moreover, the present accused is being tried jointly for the same offence with the other accused and the confession affects all of them. Further 'same offence' means identical offence and not the offence of the same kind. In the instant case, the petitioner had sold lottery tickets to accused 1 who in turn sold the same to various persons.



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8. In the circumstances, the present Criminal Original Petition stands dismissed as devoid of merits. The learned Judicial Magistrate No.IV, Tiruchirappalli is directed to dispose S.T.C.No.3908 of 2019 as expeditiously as possible. Consequently, connected Miscellaneous Petitions are closed.

31.01.2024
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Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

JEN

To

- 1.The Judicial Magistrate No.IV,
Tiruchirappalli,
Tiruchirappalli District
- 2.The Sub-Inspector of Police,
Woraiyur Police Station,
Trichirappalli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.HEMALATHA, J.

JEN

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