BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	:	18.10.2024
Pronounced On	:	29.11.2024

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.O.P(MD).No.18982 of 2023
and
Crl.M.P(MD). No.14984 of 2023

K.Ramachandran ... Petitioner/Accused No.2
(Party-in-Person)

Vs.

State Represented by
1. The Deputy Superintendent of Police,
CBI, Anti Corruption Branch,
No.73, Athikulam Road,
Madurai-14. ... 1st Respondent/Complainant

2. The Deputy Director of Income Tax (Investigation)
Income Tax Department (Investigation)-Unit-2,
1st Floor, Meenambalpuram,
Madurai- 625 002. ... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for records in C.C.No.850 of 2023 on the file of the learned Chief Judicial Magistrate, Madurai, under Sections 120B read with Sections 420, 467, 468 and 471 of the Indian Penal Code, and quash the proceedings so far as the petitioner is concerned.

For Petitioner : Mr.K.Ramachandran,
(Party-in-Person)

For Respondents : Mr.C.Muthu Saravanan,
Special Public Prosecutor
for CBI Cases for R1

: Mr.N.Dilipkumar for R2

ORDER

The Accused No.2 in C.C.No.850 of 2023 filed this petition to quash the proceedings initiated against him in C.C.No.850 of 2023 on the file of the learned Chief Judicial Magistrate Madurai, under Sections 120B read with Sections 420, 467, 468 and 471 of the Indian Penal Code.

2.The petitioner and other accused are said to have committed offences under Sections 120B and 420 of IPC and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 and the CBI registered a case in Crime No.RC 229 2021 A 0001. The first accused is the brother of the petitioner. The third accused is the wife of his brother, namely A1's wife. The prosecution case is that all the accused and other approvers conspired together to cheat the Income Tax Department, to the tune of Rs.3,42,77,901/-. A1 namely the brother of the petitioner is the Income Tax Consultant and he had employed number of persons to assist him in his consultancy business. The petitioner is a Secondary Grade Teacher and has studied Income Tax related special course, without obtaining the permission from the department. A1, A2 and A3 conspired together and collected particulars of the numerous persons and they manipulated their signature and obtained the income tax refund amount of Rs.3,42,77,901/-, and swindled the amount by making credit in their own account and there was a deposit of Rs.21,83,150/- in the petitioner's account also. In the said allegation, the CBI filed the supplementary final report against the petitioner and the same was taken on file in C.C.No.850 of 2023, by the learned Chief Judicial Magistrate, Madurai. To quash the same, the present petition has been filed.

3.The petitioner has appeared as party-in-person and filed a detailed written submission and also filed the number of volumes of documents to show that he weas not involved in the occurrence and also except the confession statement of A1 and the remaining approvers, no other material was adduced against him. He also submitted that there was a lapse on the side of the investigation agency, during the course of the investigation. The manner of the investigation conducted is biased and also against law. He also submitted that no offences were made out either under the income tax Act or any other provision.

The petitioner further submitted that no material is available against him. In the said circumstances, he seeks to quash the proceedings against him. Apart from that, he also submitted that he was arrested and released on bail with a condition to report before the CBI office daily. At that time, one of the officers demanded Rs.7 lakhs to exonerate him from the criminal proceedings. He also produced CD relating to the entire conversation between the CBI officer and himself and also requested this Court to peruse the CD. He also stated that on the basis of that, he was falsely implicated in this case and hence, he seeks to exonerate him from the CBI case.

4.The learned Special Public Prosecutor appearing for CBI submitted that abundant material is available against him to frame the charges and the CBI collected the materials. More particularly, more than a sum of Rs.21,83,150/- was credited in his account and his digital signature was used by A1 and the points raised by the petitioner, require full fledged trial and this Court has no power to appreciate the defence of the accused at this stage.

5.The learned counsel appearing for the second respondent/Income Tax department filed a detailed counter reiterating the above submission of the learned Special Public Prosecutor and they specifically stated that there was a clear act of cheating on the part of all the accused. More particularly, this petitioner's digital signature was used and apart from that, he without permission, pursued the income tax department course, which is meant only for the unemployed youth and he misappropriated the fund of the income tax. A huge amount around Rs.21,83,150/- was deposited in his account. In the said circumstances, material is available for prosecuting him. He also relied the following judgments of the Hon'ble Supreme Court:

5.1.In the case of ***Ravindra Kumar Madhanlal Goenka Vs. Rugmini Ram Raghav Spinners Private Limited*** reported in ***2009 11 SCC 529***.

5.2.In the case of ***Vijayander Kumar Vs. State of Rajasthan*** reported in ***2014 3 SCC 389***.

6.This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record and also precedents relied upon by the learned counsel appearing for the second respondent/Income Tax Department.

7.Admittedly, in the petitioner's account, there is a fraudulent entry of Rs.21,83,150/-. His digital signature also was used by A1. The entire family members namely, A1, A2 and A3 swindled the income tax amount. They have contrived scientific fraud in withdrawing the refund of Income Tax amount belonging to other tax payers, which is clearly revealed from the approvers statements. In the said circumstances, this Court need not go into further deliberation on the argument of the learned counsel appearing for the petitioner. If any further deliberation is made, it would affect the defence of the petitioner, during the course of the trial. Hence, this Court is not inclined to quash the petition by making the detailed deliberation on the defence raised by the petitioner in his written submission and oral submission. As rightly pointed out by the second respondent's counsel that on the basis of the judgment of the Hon'ble Supreme Court reported in ***2009 (1) SCC 529*** and ***2014 (3) SCC 389,*** this Court has no jurisdiction to entertain the defence of the accused at this stage. More over, in this case, prima facie case is made out by the CBI for framing the charges against the petitioner. More particularly, the digital signature of the petitioner was misused by A1 and deposit of amount of Rs.21,83,150/- in his account is found and the petitioner in this quash petition, also admitted that without obtaining permission, he had undergone the course of the income tax Department. These incriminating circumstances are sufficient to frame the charges against the petitioner and hence, this Court is not inclined to entertain the quash petition at this stage.

8.Accordingly, this Criminal Original Petition is dismissed. The Petitioner is at liberty to raise all the points before the learned Chief Judicial Magistrate, Madurai, and substantiate his defence during the course of the trial. The learned Chief Judicial Magistrate, Madurai, is directed to consider his submissions in accordance with law, without influenced by the observation passed in this quash petition. Consequently, the connected criminal miscellaneous petition is closed.

29.11.2024

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

1. The Learned Chief Judicial Magistrate,
   Madurai.

2. The Deputy Superintendent of Police,
   CBI, Anti Corruption Branch,
   No.73, Athikulam Road, Madurai-14.

3. The Deputy Director of Income Tax (Inv)
   Income Tax Department (Investigation)-Unit-2,
   1st Floor, Meenambalpuram, Madurai- 625 002.

4. The Special Public Prosecutor for CBI Cases,
   Madurai Bench of Madras High Court, Madurai.

K.K.RAMAKRISHNAN, J.

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