



CrI.O.P.(MD) No.19041 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.(MD)No.19041 of 2024

and

CrI.M.P.(MD)No.11771 of 2024

Periasamy

... Petitioner

-VS-

1.State Rep. by
The Inspector of Police,
K.K. Nagar Police Station,
Trichy.
(Crime No.190 of 2021)

2.Joshpin Geetha,
Sub-Registrar (Incharge),
Sub Registrar Office,
K.Sathanoor,
Trichy.

... Respondents

Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking to call for the entire records pertaining to C.C.No.512 of 2023, on the file of the Judicial Magistrate No.II, Trichy, and quash the same insofar as the petitioner concerned.



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For Petitioner : Mr.D.Anbarasu
For R1 : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

The petitioner (A2) in C.C.No.512 of 2023, who is facing trial for the offences under Sections 120-B, 419, 465, 471 and 420 I.P.C., has filed this quash application.

2. The contention of the learned counsel for the petitioner is that the petitioner has been implicated as an accused in this case solely based on the confession of the co-accused, and there is no direct evidence against the petitioner. Furthermore, it was only an attempt. The de-facto complainant became suspicious when a power of attorney document was to be registered, made enquiries, and found that the Aadhaar details provided for the impersonated person were false. The petitioner is said to have been prepared the Aadhaar Card and other identity credentials for the impersonated person.



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3. It is further submitted that apart from the confession of the co-accused, there is no other material evidence against the petitioner. Further, relying upon a decision of the Hon'ble Supreme Court in the case of **Kashmira Singh vs. State of Madhya Pradesh** reported in **AIR 1952 SC 159**, the learned counsel for the petitioner submitted that the confession of an accused person against a co-accused is not evidence in the ordinary sense of the term. Further, the learned counsel for the petitioner referred to the judgment of this Court in **M.Rajendran vs. The Inspector of Police and another [CrI.O.P.No.27206 of 2016, dated 16.08.2019]**, wherein this Court referred to the judgment of the Hon'ble Supreme Court in **Kashmira Singh's case** [cited supra], had held that a confession of a co-accused cannot by itself be taken as a substantiate proof of evidence against another co-accused and at the best, it can be used only to lend assurance to the Court.

4. In this case, there is no material evidence available against the petitioner except for the confession of the co-accused. The petitioner was not present at the scene of the occurrence, nor was he arrested. No confession was



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obtained from him, and nothing was recovered. The prosecution against the petitioner is being initiated solely on assumptions and presumptions.

5. The learned Additional Public Prosecutor, on the other hand, strongly opposed the petitioner's contentions, stating that in the complaint, the de-facto complainant had explicitly stated that the petitioner (A2) was present at the scene of the occurrence along with A1. When the de-facto complainant began enquiring about the forged documents, A1 and the petitioner (A2) fled the Office. The de-facto complainant is none other than the Sub-Registrar, who has no personal grievance against the petitioner.

6. The learned Additional Public Prosecutor further submitted that totally, there are seven accused in this case. All the accused conspired together and created forged documents. The specific role attributed to the petitioner is that he is the kingpin, who produced the forged Aadhaar Card and other identity credentials, and also arranged for individuals to execute the forged documents. In this case, apart from the other offences, the petitioner is also charged under Section 120-B of the I.P.C. It is a well-established fact that conspiracy is often



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hatched in secrecy, and evidence of conspiracy is not always direct; it must be inferred from the circumstances. This inference can only be drawn and confirmed during the trial, not at this stage. He further submitted the petitioner has another case in Crime No.49 of 2017 to his credit, which is being investigated by the City Crime Branch, Trichy, and is also of a similar nature. This would also stare against the petitioner's claim.

7. Considering the submissions and upon perusal of the materials, it is evident that this is a case of conspiracy. The petitioner, along with the other accused, is being prosecuted. The de-facto complainant, who is none other than the Sub-Registrar, has no grievance against the petitioner. However, she became suspicious of the documents presented for registration, and upon enquiry, found that a forged document was attempted to be registered. All the accused have participated in the offence, and the petitioner's contention can only be decided during the trial, not at this stage. In view of the same, this Court is not inclined to quash the proceedings in C.C.No.512 of 2023, pending on the file of the Judicial Magistrate Court No.II, Trichy. Accordingly, this Criminal Original Petition is dismissed. It is made clear that the observations made herein are only for the



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limited purpose of disposing of the above petition. The trial Court shall proceed with the trial on its own merits, without being influenced by any of the observations made herein. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes / No
Index : Yes / No
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06.11.2024

To:-

- 1.The Judicial Magistrate No.II,
Trichy.
- 2.The Inspector of Police,
K.K. Nagar Police Station,
Trichy.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

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