



Crl.O.P.(MD)No.21661 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2024

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.21661 of 2024

and

Crl.M.P.(MD)Nos.13416 and 13417 of 2024

A.Anto @ Anto Alex

... Petitioner

Vs.

1.The State of Tamil Nadu rep by
The Inspector of Police,
District Crime Branch,
Nagercoil,
Kanyakumari District.
(Crime No.36 of 2006)

2.Lawrence

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of B.N.S.S., to call for the records in C.C.No.228 of 2007 on the file of the Judicial Magistrate No.1, Nagercoil, Kanyakumari District and quash the same.

For Petitioners
For R1

: Mr.SC.Herold Singh
: Mr.A.Thiruvadi Kumar
Additional Public Prosecutor



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ORDER

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The petitioner, who is the third accused in C.C.No.228 of 2024, has filed this quash petition.

2.It is represented by the learned counsel for the petitioner that originally the petitioner was the third accused in C.C.No.228 of 2007. After filing of this petition, the case against the petitioner was split up and now the petitioner is facing trial in C.C.No.158 of 2024 on the file of the Judicial Magistrate No.1, Nagercoil. Hence, he seeks to quash C.C.No.158 of 2024.

3.The case projected as against the petitioner is that A1 is the husband of A2 and A3 is the son of A1 and A2. A4 is the son of A5. A1 to A3 were running St.Mary Education Service and were facilitating for getting admission to MBBS course. On 12.08.2005, on seeing the advertisement in Hindu Daily News Paper, the defacto complainant approached the petitioner's education service for getting admission to MBBS Course for her daughter and had given a sum of Rs.16 lakhs for getting such admission in Annamalai University. The accused persons after receiving the same, had given a forged selection order. Hence, the case.



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4.The contention of the petitioner is that the petitioner is the son of A1 and A2. The petitioner is a skilled labourer and he is working in abroad and he was in abroad at the time alleged occurrence. Since the parents of the petitioner are involved in this case, the petitioner being their son, is also falsely implicated in this case. There is no evidence and materials to show that the petitioner has received money and cheated the defacto complainant.

5.The learned Additional Public Prosecutor appearing for the respondent police submitted that the contentions of the petitioner cannot be looked into at this stage, since the case against the co-accused has been proved and A1, A2 and A4 were convicted in this case by the trial Court by considering the evidence and materials placed before the trial Court. Hence, the petitioner cannot now claim that from the statement of the accused, no case is made out as against the petitioner. Further, the contentions of the petitioner that he was in abroad at the relevant point of time and he had not received any money from the defacto complainant, are the matters to be considered during trial. Hence, he opposed this petition.



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6.Heard the learned counsel appearing on either side and perused the materials placed on record.

7.Admittedly, in the mother case, the co-accused have been convicted and the case against the petitioner is still under trial. At this stage, the contention of the petitioner that no case is made out against the petitioner, merely on the basis of the statements of the co-accused cannot be considered. Hence, this Court is not inclined to entertain this petition. Accordingly, this Criminal Original Petition is **dismissed**.

8.At this juncture, the learned counsel for the petitioner seeks to dispense with the personal appearance of the petitioner, since the petitioner is in abroad.

9.Considering the request made by the petitioner, the personal appearance of the petitioner before the trial Court in C.C.No.158 of 2024 is dispensed with on condition that the petitioner shall file an affidavit detailing his place of stay, his employment, communication and his identity will not be disputed at any point of time. The petitioner shall file an undertaking affidavit that he will cooperate for the trial and he will



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appear before the trial Court as and when his personal appearance is absolutely necessary and he is represented through his counsel on all further hearing without any default. No costs. Consequently, connected miscellaneous petitions are closed.

11.12.2024

NCC : Yes / No
Index : Yes / No
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To

- 1.The Judicial Magistrate No.1, Nagercoil,
Kanyakumari District
- 2.The Inspector of Police,
District Crime Branch,
Nagercoil, Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

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