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Crl.R.C.No.243 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.243 of 2024

and

Crl.MP.No.2205 of 2024

R.Lalithsharma

... Petitioner

Vs.

State rep. By
The Inspector of Police,
H-5, New Washermenpet Police Station,
Chennai – 600 081.

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to call for the entire records in connection with Crl.M.P.No.5676 of 2023 in C.C.No.4292 of 2013 and to set aside the orders passed in Crl.M.P.No.5676 of 2023 dated 27.11.2023 on the file of the learned XV Metropolitan Magistrate, George Town at Chennai.

For Petitioner : Mr.A.Ashwin Kumar

For Respondents : Mr.R.Vinothraja
Government Advocate (Crl. Side)



ORDER

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The petitioner/accused in C.C.No.4292 of 2013 filed this criminal revision petition challenging the order passed in CrI.M.P.No.5676 of 2023 filed by the prosecution to receive the letter dated 25.02.2013 of the second accused Ramakanth to the Inspector of Police, New Washermenpet Police Station and letter dated 25.02.2013 of the Tamil Nadu Steel Scrap Processor's Association as additional documents.

2.The contention of the learned counsel for the petitioner is that they are falsely implicated on a complaint of one M.Pandi, who is running an indigenous chit and a money lender. The petitioners were subscribers to the chit and for their financial need, they said to have approached him, who collected amount from various persons and gave a loan of Rs.1.85 Crores on the promise that the defacto complainant would be made as partner in VANISHITA ISPAT UDYO G(P) LDT and further, they had placed in custody to the defacto complainant 550 MT of steel angles and iron scrap materials. Later, the defacto complainant came to know that the materials transferred to the godown of one Ganesan without defacto complainant's



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knowledge, further the defacto complainant not made as a partner in the petitioner's business as promised. Hence, he lodged a complaint. The respondent police after investigation filed the charge sheet listing witnesses L.W.1 to L.W.22 and documents. During trial, P.W.1 to P.W.15 examined. P.W.14 is the Investigating officer who registered FIR, conducted major portion of investigation. P.W.15, the succeeding Investigating officer completed investigation and filed charge sheet in this case. During cross examination, P.W.14 stated that the petitioner/A2 had given a hand written letter in Tamil admitting his guilt and a letter from the Tamil Nadu Steel Scrap Processor's Association, thereafter, the prosecution filed a petition under Section 242(2) Cr.P.C. to receive both letters as additional documents. The Trial Court allowed the same. The further contention of the learned counsel is that admittedly the first letter dated 25.02.2013 is a admission letter to the Inspector of Police, New Washermenpet Police Station after registration of a case in Crime No.198 of 2013 on 23.02.2013 which is inadmissible in evidence as per Section 25 of the Indian Evidence Act and with regard to the second letter, it is a letter with interpretation. Further, L.W.19 the Secretary of the Association, no statement recorded and not examined as witness, hence the letter of L.W.19 cannot be read in as



evidence. He further submitted that petition filed under Section 242(2) Cr.P.C. is not proper. The Trial Court without considering the legality of the letter allowed the petition. Hence, the present petition is filed.

3.The learned Government Advocate (CrI. Side) submitted that the petitioner cheated the defacto complainant to the tune of Rs.1.85 Crores. The defacto complainant produced documents and witnesses to prove that he had given loan of Rs.1.85 Crores to the petitioner and other accused to tide over the financial difficulties faced by them. The petitioner and his family members were running a Steel rolling mill, got into trouble to the tune of Rs.26 Crores and they were indebted to several persons. The Bank Officials examined as witness, who confirms the petitioner's due to the Bank to the tune of Rs.13 Crores and more. The petitioner to cheat everyone executes documents and later deny the same. In this case, a letter was given on 25.02.2013 voluntarily, likewise Tamil Nadu Steel Scrap Processor's Association Secretary, gave a letter and marking of the letters in evidence cannot be objected. He further submitted that marking of these documents necessitated since the specific question put by the accused during cross examination of P.W.14.



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4.Considering the submissions made and on perusal of the materials, it is seen that the letter of A2 to the Inspector of Police, New Washermenpet Police Station/P.W.14 is inadmissible and hit by Section 25 of the Indian Evidence Act. Further in the letter, three witnesses signed, none examined as witnesses. In this case, FIR registered in Crime No.198 of 2013 on 23.02.2013, thereafter admission letter dated 25.02.2013 obtained. Hence, it cannot be marked as exhibit. In any event, any letter given to a Police Officer admitting the guilt is hit by Section 25 of the Indian Evidence Act. It is seen that as regards the second letter, the Secretary of the Tamil Nadu Steel Scrap Processor's Association/L.W.19, no statement recorded and he is not examined as witness and this letter no way helpful to the case of the prosecution. Though it is claimed that these two letters available earlier, neither listed as a document in the charge sheet nor any witnesses refers to these two letters. It is also seen that the case is at the penultimate stage. The reason given to file a petition to bring on record these two letters for the reason during cross examination PW14 discloses the same is nothing but to fill up the lacuna, which is not permissible. In view of the same, this Court is inclined to set aside the order passed by the Trial Court. Accordingly, the



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order passed by the learned XV Metropolitan Magistrate, George Town at Chennai. In Crl.M.P.No.5676 of 2023 dated 27.11.2023 is set aside.

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5.?In the result, the criminal revision petition stands allowed.

Consequently, connected miscellaneous petition is closed.

12.08.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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To

- 1.The Inspector of Police,
H-5, New Washermenpet Police Station,
Chennai – 600 081.
- 2.The XV Metropolitan Magistrate,
George Town,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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