

(2018)1 SCeJ 685

SUPREME COURT OF INDIA

Present: Justice Adarsh Kumar Goel and Justice Uday Umesh Lalit.

STATE OF TAMIL NADU – Appellant,

Versus

S. MARTIN Etc. – Respondents.

Criminal Appeal Nos.423-424 of 2018

March 28, 2018

CrPC , S. 482 – The assessment made by the High Court at a stage when the investigation was yet to be completed, is completely incorrect and uncalled for – Two crucial facts, namely, recovery of huge amount of cash of Rs.7.2 crores from the house of one of the accused and that such recovery was accepted by the accused, was enough to let the investigation go on – Whether the possession of huge cash amounting to Rs. 7.2 crores can be explained by the accused and whether such explanation be accepted or not, are all matters which will be gone into at the relevant stage in the proceedings – The investigation in any case ought not to have been set at naught but it ought to have been permitted to be taken to its logical conclusion.

[Para 7]

JUDGMENT

Uday Umesh Lalit, J. – (28th March, 2018) – 1. Original accused Nos.2 and 3 approached the High Court of Judicature at Madras by filing petitions under Section 482 Cr.P.C. namely CrI. O.P. No.13106/2013 and 14971/2013 respectively seeking quashing of Crime No.304 of 2012 registered pursuant to FIR 304 of 2012 dated 12.03.2012 with Adambakkam Police Station, Chennai. Said petitions were allowed by the High Court vide its common judgment and order dated 15.10.2014 which is presently under challenge at the instance of State of Tamil Nadu in these appeals by special leave.

2. The aforesaid FIR was registered pursuant to reporting by M. Nataraj, Inspector of Police, Crime, Adambakkam Police Station, Chennai. The FIR inter alia stated that the informant had received information that several crores of unaccounted money was stashed in the house of accused-1, Nagarajan pursuant to which a raid was conducted and cash amounting to Rs.7,20,05,000/- stored in three bags was found. The FIR further noted that said accused No.1 Nagarajan had admitted that he and his associates, namely, Accused No.2 Martin and Accused No.3 Murthy had illegally printed lottery tickets of the States of Sikkim, Kerala and Maharashtra and sold the same without obtaining any permission and in the process had amassed enormous profit and the cash in question represented the same.

Rs. 50 lakhs in cash were also seized from the house of Accused No. 3 Murthy. A-1 Nagaraj was immediately arrested and Crime No.304/2012 was registered under Sections 294(A), 420 and 120(b) IPC and the case was forwarded for investigation.

3. During the course of investigation 3625 numbers of lottery tickets of various States were recovered. In his application for anticipatory bail, accused No.2 Martin relied upon a document i.e. Agreement of Sale dated 02.03.2012. According to this unregistered agreement, the wife of accused No.2 – Martin named Mrs. Leema Rose had agreed to purchase House No.4, Old No. 56, 3rd Main Road, Anna Nagar, Chennai-40 from said accused No.3-Murthy and had paid Rs. 7.3 crores by way of advance in cash. It was submitted that the seized cash in question represented such amount received in cash.

4. While the matter was still under investigation, Crl.O.P. Nos.13106/2013 and 14971/2013 were filed on 21.05.2013 and 11.06.2013 respectively, praying inter alia quashing of aforesaid Crime No. 304 of 2012. A common counter affidavit dt. 25.06.2013 refuting all material allegations was filed by Assistant Commissioner of Police on behalf of State of Tamil Nadu. It was submitted, inter alia that the unregistered agreement dated 02.03.2012 was on a stamp paper which was issued by the State Government to the stamp vendor on 09.03.2012 and the same was sold to one Vimla on 13.03.2012. It was further submitted that the lottery tickets recovered during investigation were sent to the respective State Governments to check whether they were genuine and the report was still awaited. The counter affidavit further submitted that the investigation was still incomplete.

5. The High Court by its judgment and order dated 15.10.2014 allowed said Crl. O.P. Nos. 13106/2013 and 14971/2013 and quashed Crime No.304 of 2012 in its entirety. The High Court was of the view that the present case came within categories 2,3,5 and 7 as laid down by this Court in **State of Haryana & Others v. Ch. Bhajan Lal & Others**, 1992 Suppl.(1) SCC 335 . It further observed:

“In this case, there in no element of impersonation or falsely claiming to be authorized to make a false document.

As far as the present case is concerned, the custody of unaccounted money is not specified as to be an offence and the act of creating ante dated document by allegedly using forged non judicial stamp papers is also not specified as offence under the Code.”

The High Court finally summed up:

“Thus, for the reasons stated above, this court is of the view that neither the case of the prosecution discloses any of the ingredients of the offences charged against the accused nor the accused can be subjected to face the ordeal of trial by reason of improbable nature of prosecution case, as such, the FIR in Crl.No.304/2012 pending on the file of the respondent police is liable to be quashed in entirety against the petitioners herein as well as non petitioners.”

6. This Court issued notice on 10.07.2015. Counsel on behalf of respondents appeared and produced on record certain documents alongwith their affidavit in reply. The matter was

thereafter taken up for hearing. We heard M. Yogesh Kanna, learned Advocate on Record for the State and Mr. Amarendra Sharan, Mr. Mukul Rohtagi and Dr. A.M. Singhvi, learned Senior Advocates for the respondents-accused.

7. In our view the assessment made by the High Court at a stage when the investigation was yet to be completed, is completely incorrect and uncalled for. Presence of two crucial facts was enough to let the investigation go on, namely, recovery of huge amount of cash of Rs.7.2 crores from the house of one of the accused and that such recovery was accepted by the accused. The explanation given by them about the alleged transaction of agreement of sale and receipt of cash in pursuance thereof does not prima facie appear to be correct. The agreement is stated to have been entered on 02.03.2012 while the stamp paper in question was issued by the relevant department on 09.03.2012 to the vendor which was later sold to lady named Vimla on 13.3.2012. Whether the possession of huge cash amounting to Rs. 7.2 crores can be explained by the accused and whether such explanation be accepted or not, are all matters which will be gone into at the relevant stage in the proceedings. The investigation in any case ought not to have been set at naught but it ought to have been permitted to be taken to its logical conclusion.

8. We are not expressing any opinion on merits or demerits of either the case of the prosecution or the defence of the accused but we are of the firm opinion that while the investigation was still incomplete, the High Court ought not to have interfered in the present case. Leaving all questions open to be agitated at appropriate stages in the proceeding, we set aside the view taken by the High Court and allow these appeals. Consequently Crime No.304 of 2012 stands restored to its file and the appellant is free to conduct investigation and take the matter to its logical conclusion.

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