

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2015

CORAM

The Hon'ble Mr. Justice R.S.Ramanathan

Crl.O.P.No.25651 of 2010
and
M.P.No.1 of 2010

1. Annadurai
2. Anjappan
3. Vellaimmal
4. Settu
5. Latha

...Petitioners

vs.

1. The Inspector of Police,
Jayamkondam Police Station,
In charge of All Women Police Station,
Jayamkondam.
2. Rajakumari
(R-2 impleaded as per order, dated
13.12.2010, made in M.P.No.2 of 2010. ...Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to call for records pertaining to the proceedings in C.C.No.63 of 2008, on the file of the Judicial Magistrate, Jayamkondam, and to quash the same.

For Petitioner : Mr.N.Nanmaran

For Respondent-1 : Mr.M.Maharaja
Additional Public Prosecutor

Legal Aid Counsel R2: Mr.G. Saravanan

O R D E R

The petitioners are accused 1 to 5 in C.C.No.63 of 2008. The second respondent herein gave complaint in Crime No.12 of 2007, against the petitioners and after investigation, chargesheet was filed against the petitioners in C.C.No.63 of 2008 on the file of the Judicial Magistrate, Jayamkondam, for offence under Sections 498 (A), 494, 323, 294(b), 506(ii) IPC.

2. It is submitted by the learned counsel for petitioners that Al/Annadurai is employed in Bihar Regiment Centre, and he was on duty in the said Centre from 19.05.2007, and the alleged occurrence is said to have taken place on 10.07.2007. As per the certificate issued by the Bihar Regiment Centre, the first petitioner was on duty from 19.05.2007 and therefore, the first petitioner could not have been present on 10.07.2007, to commit the offence, as alleged by the prosecution and when that is false, entire allegations levelled against other accused were also false, and therefore, the chargesheet filed against the petitioners is liable to be quashed. The petitioners 2 and 3 are parents-in-law of the de facto complainant/second respondent and the petitioners 4 and 5 are children of petitioners 2 and 3 and they were also falsely implicated and therefore, the chargesheet filed against the petitioners are liable to be quashed.

3. I am unable to accept the contentions of the learned counsel for the petitioners. No doubt, as per the certificate, the first petitioner was on duty on 19.05.2007 and he was not granted leave after 19.05.2007. Whether the first petitioner was on duty or he came to the place of occurrence and committed the offence on 10.07.2007, have to be considered only by the Trial Court on the basis of the proof of alibi produced by the first petitioner, and at this stage, this Court cannot take into consideration of the certificate relied upon by the first petitioner and quash the chargesheet. Further, allegations are made against other accused for having committed the aforesaid offence and the statement of witness prima facie made out a case against other accused. Hence, the contention put forth by the learned counsel for petitioners is not acceptable.

4. In the result, the Criminal Original Petition is dismissed. Consequently, connected M.P. is closed.

सत्यमेव जयते

Sd/-

Asst.Registrar

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Sub Asst. Registrar

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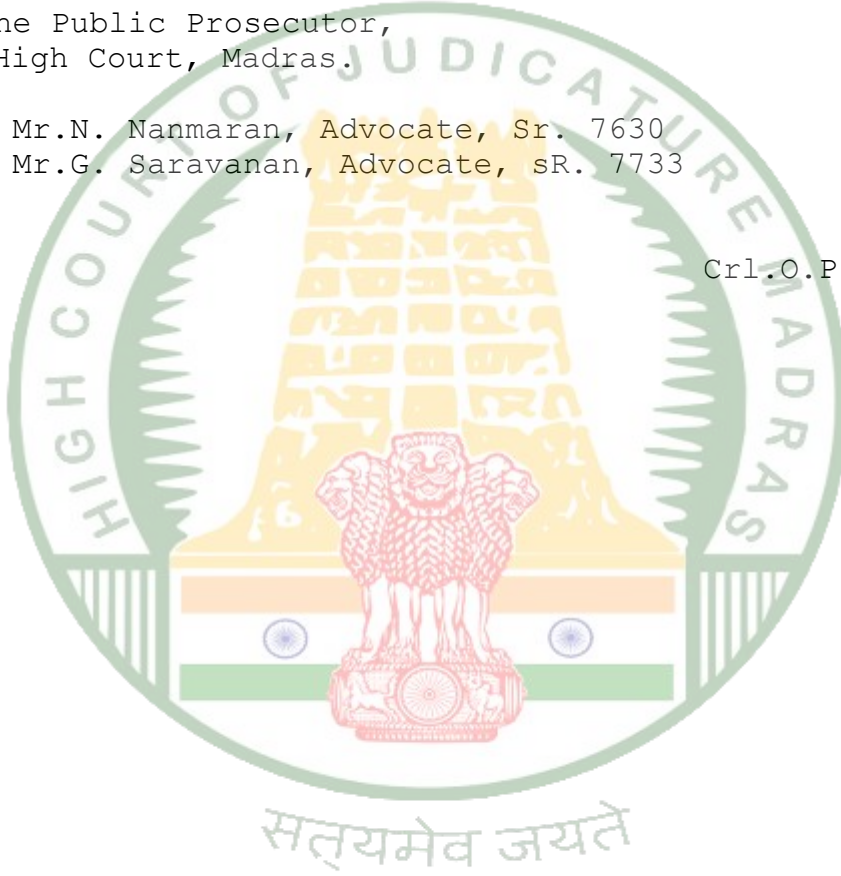
To

1. The Judicial Magistrate
Jayamkondan
2. The Inspector of Police,
Jayamkondam Police Station,
In charge of All Women Police Station.
Jayamkondan
3. The Public Prosecutor,
High Court, Madras.

1 cc to Mr.N. Nanmaran, Advocate, Sr. 7630
1 cc to Mr.G. Saravanan, Advocate, sR. 7733

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