

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 03.09.2015****CORAM:****THE HONOURABLE MS.JUSTICE R.MALA****CRL.O.P(MD)No.20806 of 2014****and****M.P(MD)Nos.1 and 2 of 2014**

S.Mookaiah

...Petitioner/Accused No.2

.vs.

1.The Inspector of Police,
Periyakulam Police Station,
Theni.

..Respondent/Complainant

2.V.Sivagnanam

..Respondent/Defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code praying this Court to call for the records relating to the impugned charge sheet filed by the first respondent in P.R.C.No.27 of 2014 on the file of the Judicial Magistrate, Periyakulam.

For Petitioner	: M/s.K.Appadurai
For Respondent-1	: Mr.A.P.Balasubramani Govt.Advocate(Crl.side)

ORDER

This Criminal Original Petition has been filed under Section 482 of Cr.P.C. praying this Court to call for the records relating to the impugned charge-sheet filed by the first respondent in P.R.C.No.27 of 2014, on the file of the Judicial Magistrate, Periyakulam.

2.Heard the learned counsel for the Petitioner and the learned Government Advocate(Crl.Side) appearing for the respondent-1/State and perused the records.

3.The Petitioner, who is A2, has come forward with this application to quash the impugned charge-sheet filed by the first respondent in P.R.C.No.27 of 2014, on the file of Judicial Magistrate, Periyakulam, stating that the first accused is the brother of the Petitioner. On the basis of the confession given by A1, the Petitioner was implicated. Since the Petitioner was implicated only on the confession of the co-accused for screening of the evidence for the offence under Section 302 IPC and on that basis, charge-sheet has been filed. So he prayed for quashing the charge-sheet.

4.The Government Advocate(Crl.Side) would submit that P.R.C. No.27 of 2014 has been committed to Mahila Court as S.C.No.33/2015. He would further submit that because of the confession of his brother, he



has been implicated in this case and both accused has been tried jointly as per the provision under Section 30 of the Evidence Act. Hence there is no reason for quashing the same and prayed for dismissal of the petition.

5.Considering the rival submissions made by both sides and a perusal of the typed-set of papers, it is seen that a case has been registered under sections 302 and 201 IPC. Admittedly, the petitioner is the second accused and the first accused is the brother of this petitioner. According to the learned counsel for the Petitioner, on the basis of the confession given by A1/co-accused, he was implicated in this case and the confession given by A1 is admissible in evidence as per Section 30 of the Evidence Act and once trial has been jointly tried, in such circumstances, whether on the instruction of A2, the screening of evidence for offence under Section 302 IPC would be decided only at the time of trial. In such circumstances, I do not find any reason to quash the charge-sheet against this petitioner.

6.At this juncture, the learned counsel for the Petitioner would fairly conceded that he is ready to get along with the trial and sought for speedy disposal of the case.

7.Considering the same, Mahila Court, Theni is directed to dispose of the case in S.C.No.33 of 2015 within a period of four months from the date of receipt of a copy of this order.

8.Accordingly, the Criminal Original Petition is dismissed. However, a direction is given to the Mahila Court, Theni is to dispose of the case in S.C.No.33 of 2015, within a period of four months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Per.Admn)

/True Copy/

Sub Assistant Registrar

vsn

To

1.The Judge, Mahila Court, Theni.

2.The Judicial Magistrate, Periyakulam.

3.The Inspector of Police, Periyakulam Police Station,
Theni.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
+1CC to Mr.K.Appadurai Advocate Sr.No.51917

GJM/AN/MP/14.9.15-2P-6C

CRL.O.P (MD) No.20806 of 2014
and

M.P (MD) Nos.1 and 2 of 2014
03.09.2015