



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.11.2015

CORAM

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

CrI.O.P. (MD) No. 21681 of 2015

and

M.P. (MD) Nos. 1&2 of 2015

Tamizhazhagan

... Petitioner / 7th Respondent

-Vs-

1.K.Anitha

... Respondent / Complainant

2.Rajendran

3.Paramasivam

4.M.Raja

5.Kumar

6.Ravichandaran

7.Murugan

8.K.Jevanantham

9.Sathish @ Jeyakandhan

10.K.Kanakkan

11.K.Samuthrayee

12.Jeya

13.M.Sampuranam

14.K.Pappa

15.The State

The Sub-Inspector of Police,

Thirumangalam Taluk Police Station,

Thirumangalam.

... Respondents / Respondents

PRAYER: Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in connection with the private complaint in C.C.No.118/2015 on the file of the learned Judicial Magistrate, Tirumangalam and quash the same with regard to the petitioner.

For Petitioner

: Mr.N.Sathish Babu

For Respondent-15

: Ms.S.Prabha

Govt.Advocate

O R D E R

The petitioner has come forward with this petition, seeking to quash the proceedings in C.C.No.118/2015, pending on the file of the learned Judicial Magistrate, Tirumangalam.



2. Mr.N.Sathish Babu, learned counsel appearing for the petitioner would submit that the petitioner has been falsely implicated in this case. He would further submit that the *defacto* complainant had already given a complaint on 05.04.2013 and after conducting enquiry, the same had been closed as early as in 2013. Adding further, the learned counsel would submit that, as per the averment made in Paragraph No.6 of the complaint, it has been admitted by the *defacto* complainant that the complaint given by her was closed as 'Mistake of fact'. Continuing his argument, the learned counsel for the petitioner would submit that after two years of closure of the complaint, now the petitioner has come forward with the private complaint, without giving any reason. Therefore, the learned counsel prayed for quashing of the proceedings in C.C.No.118/2015, pending on the file of the learned Judicial Magistrate, Tirumangalam, on the ground of laches.

3. I have heard the learned counsel appearing for the petitioner and the learned Government Advocate (crl.side) appearing for the State.

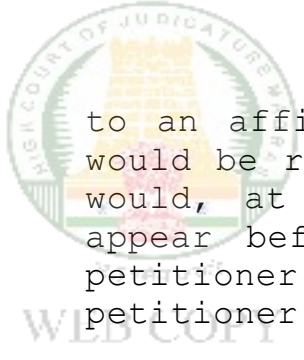
4. A bare reading of the First Information Report makes it very clear that serious allegations have been made against the petitioner under various provisions of the Indian Penal Code. It is not a bar for the *defacto* complaint in preferring a private complaint once the complaint already given to the police has been closed. Whether the petitioner has involved in the offence or not is a matter for evidence and this Court cannot go into the question of fact rather than the finding on the same.

5. In view of the Judgment of the Hon'ble Supreme Court in **HMIT Watches Ltd., Vs. M.A.Abida & Another** reported in **(2015(2) CTC 446)** wherein, it has been held that quashing of criminal complaint on disputed question of facts cannot be entertained and it is a matter for trial to proceed with the criminal complaint, I am not inclined to grant the relief as sought for by the petitioner and hence, the Criminal Original Petition is liable to be dismissed.

6. In the result, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are also dismissed.

7. At this stage, the learned counsel appearing for the petitioner submitted that the presence of the petitioner before the trial Court may be dispensed with.

8. Considering the facts and circumstances of the case, the Court directs the trial Court to dispense with the personal appearance of petitioner before it, upon the petitioner swearing



to an affidavit informing his address for service, that he duly would be represented by his counsel on all hearing dates, that he would, at no instance, dispute his identity and that, he would appear before the trial Court, as and when required. Upon the petitioner doing so, the trial court may seek the presence of the petitioner before it, solely on the important hearing dates.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

MPK

To

- 1.The Judicial Magistrate,
Tirumangalam.
- 2.The Sub-Inspector of Police,
Thirumangalam Taluk Police Station,
Thirumangalam.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,Madurai.

+1cc to Mr.N.Sathish Babu,Advocate SR No.65687

Cr1.O.P. (MD)No.21681 of 2015

17.11.2015

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