



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2015

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

Crl.O.P. (MD) No. 22338 of 2015

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

WEB COPY

1. Kalaichelvi
2. Shanthi
3. Pandi
4. Vadivel Murugan
5. Sadaiyandi
6. Ganesan
7. Mangalam
8. Rajarathinam ... Petitioners/Accused Nos. 1
to 8

Vs.

1. The State rep. By,
The Inspector of Police,
Paramakudi Town Police Station,
Paramakudi,
Ramanathapuram District.
(Crime No. 71 of 2010) ... 1st Respondent/Complainant

2. Karuppaiah ... 2nd Respondent/
Defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the entire records in C.C.No.96 of 2011 on the file of the Judicial Magistrate, Paramakudi and quash the same insofar the petitioners herein/accused Nos.1 to 8.

For Petitioners : Mr.S.Veeranasamy
For R - 1 : Mr.C.Mayil Vahana Rajendran
Additional Public Prosecutor

ORDER

The petitioners have come forward with this petition, seeking to quash the proceedings in C.C.No.96 of 2011, pending on the file of the Judicial Magistrate, Paramakudi.

2. The case of the petitioners is that this is a civil dispute between the petitioners and the second respondent and that unnecessarily, a false case has been foisted against the petitioners.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The counsel for the petitioners would submit that the



petitioners have been unnecessarily implicated in the offences, which they have not committed and that a civil case cannot be converted into a criminal case.

4. I have heard the counsel appearing on either side and perused the materials available on record.

5. A reading of the First Information Report merely shows that there was a civil dispute and whether the petitioners have involved in the offence or not is a matter for evidence and this Court cannot go into the question of fact rather than given a finding on the same.

6. In view of the Judgment of the Hon'ble Supreme Court in **HMT 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 petitioners.

7. While this Court is about to dismiss the Criminal Original Petition, the learned counsel appearing for the petitioners submitted that the presence of the petitioners before the trial Court may be dispensed with throughout the trial.

8. Considering the facts and circumstances of the case, this Court directs the trial Court to dispense with the personal appearance of petitioners before it, upon the petitioners swearing to an affidavit informing their address for service, that they duly would be represented by their counsel on all hearing dates, that they would, at no instance, dispute their identity and that, they would appear before the trial Court, as and when required. Upon the petitioners doing so, the trial court may seek the presence of the petitioners before it, solely on the important hearing dates.

9. With the above observation, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petitions are also closed.

10. **The Registry is directed to mark a copy of this order to the trial Court for further action.**

Sd/-

Assistant Registrar(CS-I)

/True copy/



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To

1.The Judicial Magistrate, Paramakudi.

2.The Inspector of Police, Paramakudi Town Police Station,
Paramakudi, Ramanathapuram District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

CSL/PM/09.12.2015
3P/4C

CRL.OP (MD) No.22338 of 2015
30.11.2015