



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2015

CORAM:

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

Cr1.O.P. (MD)No.22586 of 2015

and M.P(MD)No.1 of 2015

WEB COPY

1.P.Gunasekaran

2.I.Palraj

3.G.Mayakannan

... Petitioners/Accused Nos.2 to 4

Vs.

1. The State through,
The Inspector of Police,
Ayakudi Police Station,
Palani Taluk,
Dindigul District.
(Crime No.245 of 2015)

... 1st Respondent/Complainant

2. G.Mariamammal

... 2nd Respondent/
Defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the First Information Report in Crime No.245 of 2015 dated 01.08.2015 under Sections 302 and 201 of the Indian Penal Code on the file of the respondent No.1 and quash the same.

For Petitioners : Mr.T.Lajapathi Roy

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

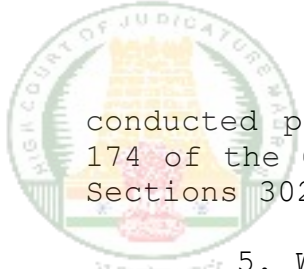
ORDER

The petitioners have come forward with this petition, praying to call for the records pertaining to the First Information Report in Crime No.245 of 2015 dated 01.08.2015 under Sections 302 and 201 of the Indian Penal Code on the file of the respondent No.1 and quash the same.

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

3. The counsel for the petitioners submitted that the petitioners have not committed any offence, much less the offence said to have been stated in the complaint. According to the counsel for the petitioners, the petitioners have not committed any offence and even assuming for the sake of argument, the offence attract only Section 201 and not Section 302 of the Indian Penal Code.

4. The case of the prosecution is that the first petitioner's wife's brother Ananthan died due to heart attack and subsequently, he was buried in the Village with the presence of the Villagers. However, subsequently, the sister of the deceased had suspicion about the death of the said Ananthan that the deceased was murdered by A1 and the same was informed to her by A1's daughter Monika. The respondent police had



conducted postmortem and initially, a case was registered under Section 174 of the Code of Criminal Procedure, 1973 and subsequently altered into Sections 302 and 201 of the Indian Penal Code on 01.08.2015.

5. 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 the finding on the same, since there is a disputed question of fact involved.

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 and hence, the Criminal Original Petition is liable to be dismissed.

7. In the result, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
Ayakudi Police Station,
Palani Taluk,
Dindigul District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.T.Lajapathy Roy, Advocate, SR No.68427

CRL.OP (MD) No.22586 of 2015
30.11.2015

ps

SH/SKS-RR:23.12.2015:2P/4C