



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2015

CORAM:

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

CRL.O.P.(MD)No.4687 of 2015

and

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

WEB COPY

- 1.Muthu @ Mupidathy
- 2.Saravanaperumal
- 3.Krishnan
- 4.Murugesan
- 5.Kannan
- 6.Seeralan
- 7.Mariyappan
- 8.Murugan

... Petitioners/Accused
vs.

- 1.State rep. by
The Inspector of Police,
Perumalpuram Police Station,
Tirunelveli District.
In Crime No.729 of 2013

- 2.R.Esakkiammal

... Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.101 of 2014 pending on the file of the learned Judicial Magistrate No.I, Tirunelveli and to quash the same.

For Petitioner : Mr.A.K.Azagarsami

For R-1 : Mrs.S.Prabha

Government Advocate(Crl. Side)

ORDER

The petitioners, who are arrayed as accused in C.C.No.101 of 2014 on the file of the learned Judicial Magistrate No.1, Tirunelveli, seeking to quash the proceedings.

2. Heard the learned counsel for the petitioners and the learned Government Advocate(Crl. Side) for the State and perused the materials available on record.

3. The following four submissions have been made by the learned counsel for the petitioners to quash the proceedings:

(i)The entire complaint makes of motive and willful;

(ii)The offence under Section 506(ii) IPC is not made out;

(iii)The offence under Section 294(b) IPC is also not made out; and

(iv)On the date of occurrence, the petitioners being Government Servants, they were working at the time occurrence.

4. This Court is of the view that all the submissions are in the realm of facts to be decided by the trial Court. The question of motive and the petitioners being Government servants, they were working at the time of occurrence, will have to be decided on evidence. Similarly, the question as to whether the offence alleged are made out or not, is a matter to be decided by the trial Court on being proved by the prosecution.



5. Therefore, this Court is not inclined to quash the proceedings and hence, this Criminal Original Petition is dismissed. Consequently, connected M.P.(MD) Nos.1 & 2 of 2015 are also closed. However, all the issues are left open to be raised before the Court below. Learned Judicial Magistrate No.I, Tirunelveli, is directed to dispose of C.C.No.101 of 2014 within a period of six months from the date of receipt of a copy of this order. 'The appearance of the petitioners before the Court below is dispensed with until and unless the same is required'.

Sd/-

08.04.2015

This matter having been listed under the caption for 'Being mentioned' on Friday the nineteenth day of June, 2015 pursuant to the order of this court dated 8.4.2015 made herein in the presence of the aforesaid counsels on the either side, the court made the following order:

The matter is posted under the caption 'for being mentioned'.

2. The learned counsel for the petitioners submitted that though this court said that The appearance of the petitioners before the court below is dispensed with until and unless the same is required. It has not been recorded in the order.

3. Considering the submission of the learned counsel for the petitioners, the Registry is directed to incorporate the omitted portion in paragraph No.5 of the order dated.08.04.2015 and issue fresh order copy.

Assistant Registrar (T&P)

/True Copy/

Sub- Assistant Registrar

To

(to be substituted order copy already despatched on 29/04/2015)

1.The Judicial Magistrate No.I,
Tirunelveli.

2.The Inspector of Police,
Perumalpuram Police Station,
Tirunelveli District.

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

+1cc to Mr.AK.Azagarsami, Advocate SR.No.17946

sm:28.04.2015:2P/5C

sm:07.07.2015:2P/5C

Cr1.O.P (MD) No.4687 of 2015
and M.P (MD) Nos.1 and 2 of 2015
08.04.2015