



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2015

CORAM:

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

CRL.O.P. (MD) Nos.2217 and 13713 of 2011

WEB COPY

1.V.Seetharaman ... Petitioner in Crl.OP.2217/2011
2.V.Sundar Raman
3.S.Jayalakshmi ... Petitioner in Crl.OP.13713/2011

Vs.

1.V.Sundar Raman
2.S.Jayalakshmi ... Respondents in Crl.OP.2217/2011
3.V.Seetharaman ... Respondents in Crl.OP.13713/2011

PRAYER IN CRL.OP(MD)NO.2217 OF 2011: This Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure, praying to direct the Judicial Magistrate No.1, Trichy, to dispose the Criminal Proceedings in C.C.No.158 of 2002, pending before the Judicial Magistrate No.1, Trichy.

PRAYER IN CRL.OP(MD)NO.13713 OF 2011: This Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure, praying to call for the records pertaining to the private criminal complaint filed by the respondent / complainant in C.C.No.158 of 2002, on the file of the learned Judicial Magistrate No.1, Tiruchirappalli and quash the same.

For Petitioner : Ms.K.Elil Selvi
(In Crl.O.P.2217/2011)

For Petitioner : Mr.V.S.Rajan
(In Crl.O.P.13713/2011)

For Respondents : M/s.Hema Karthikeyan
(In Crl.O.P.2217/2011)

For Respondents : Ms.K.Elil Selvi
(In Crl.O.P.13713/2011)

COMMON ORDER

The Crl.O.P.(MD)No.2217 of 2011 has been filed, seeking a direction to the learned Judicial Magistrate No.1, Trichy, to dispose of the proceedings in C.C.No.158 of 2002 and Crl.O.P.(MD)No.13713 of 2011 has been filed, seeking to quash the said proceedings.

2.This Court has discussed with the chequered issue. Earlier a petition has been filed on behalf of the petitioners in Crl.O.P.(MD) No.13713 of 2011. In Crl.O.P.(MD)No.20536 of 2002, this Court in and by order, dated 29.11.2002, was pleased to dismiss the said petition, by observing the following manner:-

<https://hcservices.ecourts.gov.in/hcservices/> "6. When the averments found in the complaint were gone into, there is a statement in the complaint that the debentures and share certificate belonging to



Sriraman were taken away by the accused petitioners. There is also an averments that at five instances forgeries were made. Therefore, on the face of it, I am unable to hold that the offences alleged are not made out. Therefore, it is not fair on the part of this Court to stall the proceedings at the threshold. Though the accused and the complaint are close relatives, they have chosen to approach the criminal court instead of settling their issues by way of a compromise. On that score, this Court cannot quash the proceedings also. Therefore, in view of the above discussion, the petition stand dismissed and the trial Court is directed to proceed with the matter in accordance with law. CrI.M.P.No.8454 of 2002 is closed."

3. A challenge was made to the Apex Court in CrI.A.No.852 of 2004 and the relevant portion of the orders reads as follows:-

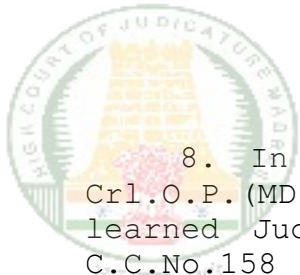
"Without expressing any opinion on the merits of the controversy, we dispose of this appeal and direct the parties to appear before the Registrar General of the Madras High Court on 8th December, 2010 who shall mark the case for mediation. In case a compromise is not arrived at before the Mediation Cell the appellants may challenge the summoning order made under Section 204 of the Cr.P.C., if permissible in law."

4. It appears that thereafter, there was no settlement between the parties and therefore, the present petition has been filed, seeking to quash the proceedings by the accused.

5. The learned counsel appearing for the petitioner CrI.O.P.(MD) No.13713 of 2011 has submitted that there is an inordinate delay on the part of the respondents, who has not pursued the matter after the original complainant died. There is no material to substantiate the forgery, since no records have been collected from other companies and the disputed document has not been sent to the expert. The complaint is dehorse the bereft of material particulars.

6. Counsel for the respondent/complainant submitted that the petitioners, who has been dragging on the matter. What the petitioner seek is readjudication of the matter, which is impermissible in law. The matter is pending for nearly 13 years. Therefore, the trial Court will have to be directed to proceed further.

7. The petitioner cannot readjudicate the matter, which was dealt with by this Court in the earlier occasion. Similarly, the issue which was available earlier cannot be raised at this point of time. The question as to whether the petitioner committed forgery or not is a matter to be proved by the prosecution. The said fact was also taken note of by this Court in the earlier occasion. Similarly, the question of delay cannot be gone into, as it was very well available to the petitioners even at the earlier point of time. Accordingly, this Court is not inclined to interfere with the case.



8. In the result, Crl.O.P.(MD)No.13713 of 2011 is dismissed and Crl.O.P.(MD)No.2217 of 2011 is ordered. A direction is issued to the learned Judicial Magistrate No.1, Trichy, to dispose of the case in C.C.No.158 of 2002, within a period of six months from the date of receipt of a copy of this order, by taking into consideration of long pendency of the case and all the issues are left open to be decided by the trial Court. Considering the age of the petitioners, their appearance before the trial Court is dispensed with until and unless the same is required by the trial Court. Consequently, connected miscellaneous petition is closed.

Sd/-

The Assistant Registrar(RTI)

/True copy/

Sub-Assistant Registrar

To

1.The Judicial Magistrate No.1, Trichy,

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

+1cc to M/s.K.Hemakarthiskeyan, Advocate SR.No.29637

+1cc to M/s.K.Elil Selvi, Advocate SR.No.29436

mpk

SR:26.06.2015:3P/5C

CRL.O.P. (MD) Nos.2217 and 13713 of 2011
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