



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.06.2015

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH

Crl.O.P (MD) No.20177 of 2013

and

M.P (MD) Nos.2 and 3 of 2013

WEB COPY

- 1.Nagarajan
- 2.Thangaraj
- 3.Chandran
- 4.Duraiaraj
- 5.Balaraman
- 6.Madhusudhanan
- 7.Vethilingam
- 8.Iqbal

... Petitioners/Accused

-Vs-

- 1.State rep. By the Inspector of Police,
District Crime Branch,
Pudukkottai.
Crime No.5 of 1989. ..Respondent/Complainant
- 2.The Chief Accounts Officer,
Marudhupandiar Transport Corporation Limited,
Karaikudi.
(Now TNSTC, Kumbakonam Division)... Respondent/Defacto Complainant

PRAYER:- Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 praying to call for records relating to C.C.No.24 of 1997 pending on the file of the learned Judicial Magistrate, Pudukkottai and quash the same as against the petitioners.

For Petitioners : Mr.S.Deenadhayalan
For R - 1 : Mr.K.Anbarasan
Government Advocate (Crl. Side)

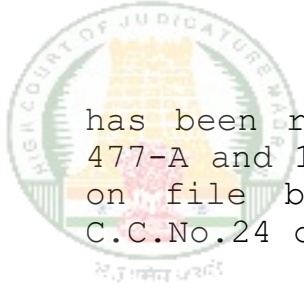
ORDER

This Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 praying to call for records relating to C.C.No.24 of 1997 pending on the file of the learned Judicial Magistrate, Pudukkottai and quash the same as against the petitioners.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the first respondent.

3. The petitioners have been arrayed as accused in Crime No.5 of 1989 under Sections 409, 477-A and 120-B of the Indian Penal Code for the alleged offences in between 1986 and 1989.

4. The allegation against the petitioners is for the shortage of materials and stocks during the Audit visit. Accordingly, a case



has been registered for the alleged offences under Sections 409, 477-A and 120-B of the Indian Penal Code and the case has been taken on file before the learned Judicial Magistrate, Pudukkottai in C.C.No.24 of 1997.

5. It appears that no progress has been made since then. As against the departmental proceedings, again the petitioners approached the Labour Court. In the Labour Court, an award has been passed in favour of the petitioners. Before the Labour Court, the very eye witnesses before the criminal Court have been examined. The award of the Labour Court has also been challenged before this Court. The Writ Petition filed by the Management was also dismissed. Recovery proceedings initiated against the petitioners were also terminated.

6. This Court has perused the records and this Court is satisfied that it is transverse to proceed with the trial at this stage. The allegations are very vague. Though the proceedings referred above *ipso-facto* cannot be the basis to quash the proceedings, they can be taken into consideration. The allegations are based upon records. When the respondent could not substantiate the same, even when preponderance of probabilities alone is required, it cannot be said that the prosecution would prove it beyond reasonable doubt especially when the witnesses are one and the same. The very charge sheet itself has been filed after a period of nine years. The case has been pending trial for nearly two decades. The petitioners are also entitled for speedy trial by way of fundamental right. There is no explanation for not going on with the trial till filing of the date of this petition for about 15 years.

7. Considering the above, this Court is inclined to set aside the proceedings in C.C.No.24 of 1997 and accordingly, the Criminal Original Petition is allowed and the proceedings in C.C.No.24 of 1997 pending before the learned Judicial Magistrate, Pudukkottai stands quashed. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Judicial Magistrate , Pudukkottai
 - 2.The Inspector of Police, District Crime Branch, Pudukkottai.
 - 3.The Additional Public Prosecutor,
- Madurai Bench of Madras High Court, Madurai.
- +One cc to Mr.S.Deenadayalan, Advocate, SR.No.34912

ps

RL/5 c- 14/7/2015

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

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