

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.No.12081 of 2016
and
Crl.MP.Nos.6208 & 6209 of 2016

M.Kannapa Chettiar

...Petitioner

Vs.

1.Boovaragamoorthy
2.Kurinjivalavan
3.Arivu @ Arivalagan
4.Kumaran
5.Bonda @ Vengitesan
6.Narayanamoorthy
7.Dhuraikannu
8.Balaji

9.The Inspector of Police,
Gingee Police Station,
Gingee.

.... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 Cr.P.C., praying to set aside the order dated 06.04.2016 in CRP.No.12 of 2015 on the file of the learned II Additional District Judge, Tindivanam.

For Petitioner : Mr.V.Bhiman

For Respondent [R8]: Mr.C.Emalias,

Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed praying to set aside the order dated 06.04.2016 in CRP.No.12 of 2015 on the file of the learned II Additional District Judge, Tindivanam.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent-police.

3. On a complaint lodged by the petitioner, the Sub Inspector of Police, Gingee Police Station, Gingee, registered a case in Crime No.24 of 2013 for the offences under Sections 147,

294(b), 447 and 506(ii) of IPC., against ten persons. After completing the investigation, it is alleged by the petitioner that final report in C.C.No.276 of 2013 has been filed only against four persons before the learned Judicial Magistrate, Gingee. Instead of filing protest application before the concerned Magistrate, the petitioner created a new jurisprudence "implied discharge" and filed Crl.RC.No.1584 of 2013 before this Court, which was rightly disposed of by a learned Judge of this Court on 06.01.2014, holding that the new accused could be added either under Section 319 of Cr.P.C., or under Section 173(8) of Cr.P.C., pursuant to the investigation. The petitioner should have left it at that stage and allowed the trial to proceed. Instead, the petitioner filed a petition in CMP.No.6819 of 2014 under Section 210 Cr.P.C., which came to be dismissed by the learned Judicial Magistrate, Gingee, aggrieved by which, the petitioner filed CRP.No.12 of 2015, which has also been dismissed by the learned II Additional District Judge, Tindivanam on 06.04.2016, aggrieved by which, the petitioner is before this Court invoking inherent jurisdiction under Section 482 Cr.P.C., Under Section 397(3) Cr.P.C., if a person invokes the revisional jurisdiction of the Sessions Court, he is precluded from filing a second revision before this Court. However, a petition under Section 482 Cr.P.C., is maintainable, where it is shown that gross injustice has occurred, which requires a remedial order by invocation of the inherent powers of this Court.

4. In this case, from the start, the petitioner has been filing peculiar petitions on which the Courts below have been passing orders. Therefore, this is not a fit case for this Court to interfere under Section 482 Cr.P.C., However, as held by the learned Single Judge of this Court in Crl.R.C.No.1584 of 2013 dated 06.01.2016, if during the course of trial, evidence surfaces as against some other persons in the offence, it is open to the Trial Court to include them as accused under Section 319 Cr.P.C., albeit any observations made by the Sessions Court in CRP.No.12 of 2015.

5. With the above observations, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy/

Sub Assistant Registrar

ds

To

1.The Inspector of Police,
Gingee Police Station,
Gingee.

2.The Public Prosecutor
High Court, Chennai.

Crl.O.P.No.12081 of 2016

CTK(CO)
EU 04.6.16



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