

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.12119 of 2016
and Crl.M.P.Nos.6222 and 6223 of 2016

1.K.Chandrakala
2.V.Velan
3.K.Karthikeyan

..Petitioners

Vs

State By
The Sub Inspector of Police, AWPS
Gudiyatham
Vellore District.

.. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and quash the proceedings in C.C.No.70 of 2010 on the file of the learned Judicial Magistrate Court, Gudiyatham.

For Petitioners : Mr.Kalyanasundaram
Senior Counsel
for Mr.B.N.Chandra Sekar
For Respondent : Mr.C.Emalias
Addl.Public Prosecutor

O R D E R

This petition has been filed to call for the records and quash the proceedings in C.C.No.70 of 2010 on the file of the learned Judicial Magistrate Court, Gudiyatham.

2. Heard the learned Senior Counsel for the petitioners and the learned Additional Public Prosecutor appearing for the State.

3. On the complaint lodged by Maheshwari, the respondent police registered a case in Cr.No.13/2009 and after completing the investigation has filed a Final Report in C.C.No.70/2010 for offences u/s 294(b), 341, 494, 506(ii) IPC r/w 109 IPC against Devasagayam and six others, challenging which the petitioners, who are A5, A6 and A7 are before this Court. It is seen that earlier these petitioners have filed Crl.O.P.No.13836/2011 which was dismissed on 15.06.2012 and thereafter, for the same relief, the petitioners are before this Court.

4. It is contended by the learned counsel for the petitioners that when the accused filed a copy application, it was returned on the ground that the records were not available. Hence, this Court called for a Report from the Judicial Magistrate, Gudiyatham and the Report dated 27.06.2016 has been received from the Judicial Magistrate, Gudiyatham, wherein it is stated as follows:

"I further humbly submit that this Court received the entire material records in C.C.No.70/2010 on the file of this Court on 10.06.2013, after disposal of the above said CrI.O.P.No.13836/2011. Further, this Court issued witness summon to the accused after receipt of the material records. In the mean while, the counsel for accused filed the petition u/s 205 of Cr.P.C. to dispense with accused 2 & 4. On 13.10.2014 in C.M.P.No.9760/2014 and this petition is allowed by this court on 23.11.2015. Subsequently, the defacto complainant counsel filed the petition u/s 301(2) of Cr.P.C. on 28.03.2016 before this to assist the prosecution along with the Assistant Public Prosecutor. The prosecution counsel, APP filed the counter on 23.06.2016. Hence this case posted to 27.06.2016 for enquiry in CMP No.2860/2016.

Hence I humbly further submit that the entire case records, i.e., original complaint, FIR and 161 statements of witnesses are available in this court in C.C.No.70/2010, this case is pending for delay for the above said C.M.P.No.2860/2016.

Finally I conclude my explanation for the delay is pending for enquiry in C.M.P.No.2680/2016 in C.C.No.70/2010. This is for the Honours kind information."

In view of the above, this petition is dismissed with a direction to the petitioners to appear before the trial Court and participate in the trial. The trial Court is directed to dispose of the case within six months from the date of receipt

of a copy of this order. The petitioners shall cross examine the witnesses on the day when they are examined-in-chief, as held by the Supreme Court in Vinoth Kumar v. State of Punjab [(2015) 1 MLJ (crl) 288].

gms

-s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Judicial Magistrate, Gudiyatham.

2. The Sub Inspector of Police, AWPS
Gudiyatham
Vellore District.

3. The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr. Chandrasekar, Advocate SR 36472

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prk14/7

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