

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2016

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Crl.O.P.No.4012 of 2013
and M.P.No.1 of 2013

K.Ayyanar

.. Petitioner

Vs.

1.State rep. by
Sub-Inspector of Police,
Moongilthuraipattu Police Station,
Sankarapuram,
Villupuram District.

2.M.Annamalai ... Respondents
(R2 impleaded as per order made in
Crl.M.p.No.1453 of 2016 in Crl.O.P.No.4012 of 2013
dated 16.02.2016)

Prayer:- Petition has been filed under Section 482 of Cr.P.C. to
call for the records in C.C.No.45 of 2012 on the file of the
learned Judicial Magistrate, Sankarapuram and quash the same.

For Petitioner : Mr.A.K.M.Samsunihar
For Respondents : Mr.C.Emalias
Addl. Public Prosecutor (For R1)
Mr.B.Harikrishnan (For R2)

O R D E R

The petitioner has come forward with this petition to
call for the records in C.C.No.45 of 2012 on the file of the
learned Judicial Magistrate, Sankarapuram and quash the same.

2.The learned counsel for the petitioner submitted that
on the basis of the complaint given by the second respondent a
case in Crime No.9 of 2011 has been registered against the
petitioner for the offences punishable under Sections 294(b),
324 and 506(ii) of IPC and after investigation, charge sheet has
been laid. He would also submit that on the date of occurrence
i.e. on 15.11.2012, the petitioner was served in Army and so,
the petition itself is false. Hence, he pray for quashing the
case in C.C.No.45 of 2012 pending on the file of the learned
Judicial Magistrate, Sankarapuram.

3.Heard the learned Additional Public Prosecutor appearing for the first respondent.

4.The learned counsel appearing for the second respondent filed a detailed counter stating that alibi is a question of fact and that can be decided only at the time of trial and not in the quash petition under Section 482 Cr.P.C.

5.In such circumstances, this Criminal Original Petition is dismissed as devoid of merits since alibi is not a ground for quashing the proceedings in C.C.No.45 of 2012 pending on the file of the learned Judicial Magistrate, Sankarapuram. However, since the case is of the year 2012, the learned Judicial Magistrate, Sankarapuram is directed to dispose of the case in C.C.No.45 of 2012 within a period of two months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.
cse

s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

1.The Sub-Inspector of Police,
Moongilthuraipattu Police Station,
Sankarapuram,
Villupuram District.

2.The Judicial Magistrate,
Sankarapuram.

3. The Chief Judicial Magistrate,
Sankarapuram.

4.The Public Prosecutor,
High Court, Madras.

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CrI.O.P.No.4012 of 2013
and M.P.No.1 of 2013