

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.22792 of 2016

Najira Gani

.. Petitioner

Vs

1. A.Tajudeen
2. Sheik Allaudin,
3. Abdul Halik,
4. Abdul Akbar
5. S.M.Sarfudeen
6. Ahamad Nachia
7. Hak
8. Jinnah
9. Jibir
10. Jokan
11. Ansari
12. Tmt. Leelavathi
13. Tmt. Kalaichelvi

.. Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to Set aside the Order dated 02/02/2012 in Crl.R.P.No.6 of 2009 passed by the Learned Sessions Judge, Thiruvarur confirming the order of the Learned District Munsif Cum Judicial Magistrate Nannilam in C.C.No.98 of 2009 order dated 12/06/2009 and allow and present criminal Original Petition and further direct the Learned district Munsif Cum Judicial Magistrate Nannilam to take the Private Complaint as against all the accused.

For Petitioner : Mr.K.Balakrishnan

ORDER

This petition has been filed seeking to set aside the order dated 02.02.2012 in Crl.R.C.No.6 of 2009 passed by the Sessions Judge, Thiruvarur confirming the order dated 12.06.2009 by the District Munsif-cum-Judicial Magistrate, Nannilam in C.C.No.98 of 2009 and to direct the District Munsif-cum-Judicial Magistrate, Nannilam to take the private complaint against all the accused.

2. Heard the learned counsel for the petitioner.

3. It is seen that the petitioner lodged a private complaint before the Chief Judicial Magistrate, Thiruvarur, against 13 accused. After examination of witnesses, summons were issued only against A1 to A5 and process was not issued

to rest of the accused viz., A6 to A13. Challenging the order, the petitioner filed a Criminal Revision Petition in Cr.R.C.No.6 of 2009 before the Sessions Judge, Thiruvarur and the Sessions Judge, Thiruvarur, by order dated 02.02.2012, dismissed the revision petition, challenging which, the petitioner is before this Court u/s 482 Cr.P.C.

4. Under Section 379 (ii) Cr.P.C., second revision before the High Court is not maintainable, when, the party had elected to approach the Sessions Court. However, the petition u/s 482 Cr.P.C. is maintainable, if it is found that the orders passed by the Court below are on the face of them, appear illegal.

5. In this case, both the Courts have appreciated the evidence adduced by the petitioner and have held that there are no materials to proceed against A6 to A13. That apart, the Sessions Judge passed the order on 02.02.2012, which is being challenged in the year 2016 and therefore, it is hit by laches.

In any event, there are no merits in the case and accordingly, the Criminal Original Petition is dismissed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

1. The Sessions Judge
Tiruvarur

2. The District Munsif cum
Judicial Magistrate
Nannilam

Cr1.OP No.22792 of 2016

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