

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2016

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CrI.O.P.No.25199 of 2016
and
CrI.MP.12227 of 2016

M.Kannappa Chettiar

...Petitioner

Vs.

State by

The Inspector of Police
Gingee Police Station, Gingee
Villupuram District.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C to direct the Judicial Magistrate, Gingee, Villupuram District to number the C.M.P.SR.No.10936 of 2016 in CC.No.276 of 2013 filed on 27.09.2016 and dispose the same on merits.

For Petitioner : Mr.C.Prakasam
For Respondent : Mr.C. Emalias
Addl. Public Prosecutor

O R D E R

This criminal original petition has been filed to direct the Judicial Magistrate, Gingee, Villupuram District to number the C.M.P.SR.No.10936 of 2016 in CC.No.276 of 2013 filed on 27.09.2016 and dispose the same on merits.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State.

3. On the complaint of one Kurinjivalavan, the respondent police registered a case in Crime No.23 of 2013 on 09.01.2013 for offences under Sections 147, 148, 294(b), 341, 355, 324 & 506(ii) IPC against M.Kannappa Chettiar and five others. Similarly, on the complaint of Kannappa Chettiar, the respondent police registered a case in Crime No.24 of 2013 on 09.01.2013 for offences under Sections 147, 148, 448, 323, 324 and 506(i) IPC against one Poovaragha Moorthi and seven others including Kurinjivalavan, who is the complainant in Crime No.23 of 2013. The police completed the investigation in both the cases. In Crime No.23/2013, the police filed the final report in CC.No.263

of 2013 against six accused including Kannappa Chettiar for offences under Section 147, 294(b), 341, 323, 355 & 506(ii) IPC, i.e Section 324 has been deleted in CC.No.263 of 2013. Similarly, the respondent police filed the final report in Crime No.24 of 2013 before the Judicial Magistrate, Gingee in CC.No.267 of 2013 under Section 294(b) and 506(i) IPC against four accused, i.e, it has deleted Village Administrative Officer and Surveyor who were initially shown as accused in the FIR.

4. The petitioner, herein Kannappa Chettiar filed Crl.RC.No.1584 of 2013 and Crl.OP.No.12081 of 2016 before this Court for various reliefs. In Crl.OP.No.12081 of 2016, this Court passed final orders on 14.06.2016, the operative portion of which is as follows :

"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. Trial began in CC.No.276 of 2013 before the Judicial Magistrate, Gingee and Kannappa Chettiar was examined as PW1. In his evidence before the trial Court, Kannappa Chettiar gave evidence against the Village Administrative Officer, Surveyor and other persons in chief-examination. Immediately thereafter, Kannappa Chettiar filed a petition under Section 319 Cr.P.C before the Judicial Magistrate, Gingee for including them also as accused. The Judicial Magistrate, Gingee has returned the petition, challenging which, Kannappa Chettiar is before this Court.

6. Learned counsel appearing for the petitioner submitted that the Judicial Magistrate, Gingee ought not to have returned the petitioner but passed judicial orders thereon.

7. On a reading of the order dated 27.09.2016, it is seen that the Judicial Magistrate, Gingee has stated that mere allegations in the witness box without supportive materials cannot be a reason to entertain the petition.

8. This Court does not find any infirmity in the order passed by the Judicial Magistrate, Gingee. In this case, the allegations are smaller offences and the petitioner himself is an accused in CC.No.263 of 2013. Therefore, the petitioner cannot use the witness box to implicate all and sundry without sufficient reason. It is always open to the petitioner to represent the petition before the Judicial Magistrate, Gingee in CC.No.276 of 2013 after credible and substantial evidence comes on record.

9. The Assistant Registrar, (Criminal Side) is directed to take a photocopy of the original petition that was filed by the petitioner in CMP.SR.No.10936 of 2016 in CC.No.276 of 2013 and hand over the original petition to Mr.C.Prakasam, learned counsel appearing for the petitioner under due acknowledgment.

With the above direction, this petition is dismissed as being devoid of merits. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mk

To

1. The Judicial Magistrate, Gingee.
 - 2 Do thro the Chief Judicial Magistrate, Villupuram
 3. The Inspector of Police
Gingee Police Station, Gingee
Villupuram District.
 4. The Public Prosecutor, High Court, Madras.
- Copy to
- 5 The Asst Registrar
Criminal Section, High Court, Madras

+1cc to Mr.Prakasan, Advocate, S.R.No.67361

mg (CO)

md(01/12/2016)

Cr1.O.P.No.25199 of 2016