

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 04.01.2016

CORAM

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN**Crl.O.P. (MD)No.24725 of 2015****and****M.P. (MD)Nos.1&2 of 2015**

1.Mahalakshmi

2.Raveendran

... Petitioners/Accused Nos.1 & 2

-Vs-

1.The state Rep.by

The Inspector of Police,

Perumal Puram Police Station,

Tirunelveli City

(Crime No.142 of 2013) ...1st Respondent/Complainant

2.M.Selva Kumar

... 2nd Respondent/Defacto Complainant

PRAYER: Petition filed under Section 482 of the Code of Criminal Procedure, praying to quash the entire proceedings in C.C.No.308/2013 as against the petitioners, pending on the file of learned Judicial Magistrate No.I, Tirunelveli.

For Petitioner : Mr.R.Anand

For Respondent-1 : Ms.S.Prabha

Govt.Advocate

ORDER

The petitioner has come forward with this petition, seeking to quash the entire proceedings in C.C.No.308/2013 as against the petitioners, pending on the file of Judicial Magistrate No.I, Tirunelveli.

2. Mr.R.Anand, counsel appearing for the petitioner would submit that the petitioner has been falsely implicated in this case. He would further submit that the offence under Section 406 of IPC., is not attracted to the facts of the case and the matter is purely civil in nature, which has been given the colour of criminality. Therefore, he has come forward with the aforesaid relief.

3. Admittedly, there is a disputed question of facts involved in this case and the FIR has been registered under Section 156(3) speaks volumes about the conduct of the petitioner. A bare reading of the First Information Report makes it very



clear that serious allegations have been made against the petitioner under various provisions of the Indian Penal Code. Whether the petitioner has been involved in the offences or not is a matter for evidence and this Court cannot go into the question of fact rather than given a finding on the same. Anyhow, without expressing any opinion on the merits of the said statement, as the same is subject matter under the scrutiny of the trial Court, and that the matter is pending from 2013, this Court is not inclined to interfere with the proceedings in C.C.No.308/2013, in view of the Judgment of the Hon'ble Supreme Court in **HMT Watches Ltd., Vs. M.A.Abida & Another** reported in **(2015(2) CTC 446)** wherein, it has been held that quashing of criminal complaint on disputed question of facts cannot be entertained and it is a matter for trial to proceed with the criminal complaint, I am not inclined to grant the relief as sought for by the petitioner and hence, the Criminal Original Petition is liable to be dismissed. Consequently, connected miscellaneous petitions are also dismissed.

4. However, considering the facts and circumstances of the case, this Court directs the trial Court to dispense with the personal appearance of petitioners before it, upon the petitioners swearing to an affidavit informing their address for service, that they duly would be represented by their counsel on all hearing dates, that they would, at no instance, dispute their identity and that, they would appear before the trial Court, as and when required. Upon the petitioners doing so, the trial court may seek the presence of the petitioners before it, solely on the important hearing dates.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate No.I, Tirunelveli.

2.The Chief Judicial Magistrate, Tirunelveli

3.The Inspector of Police

Perumal Puram Police Station, Tirunelveli City

4.The Additional Public Prosecutor,

Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.R.Anand, Advocate Sr.No.882

MPK

AA/SK-SKN/20.01.2016/2p-6c

Cr1.O.P. (MD) No.24725 of 2015

04.01.2016