

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2017

CORAM:

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

Crl.O.P.Nos.23241 to 23243 of 2011

and

M.P.Nos.1,1,1,2,2 and 2 of 2011

C.N.Bakthavatsalam ... Petitioner in Crl.OP.No.23241/11

1.A.Thamizhselvi

2.B.Geetha ...Petitioners in Crl.OP.No.23242/11

1.Kumar

2.Mohanarangam

3.Parthiban

4.Sridhar ..Petitioners in Crl.OP.No.23243/11

vs.

State, Represented by

State House Officer,

District Crime Branch,

Villupuram.

(Cr.No.15/2008) ... Respondent in all the Crl.O.Ps

Common Prayer: Criminal Original Petitions filed under Section 482 of Cr.P.C., to call for the records and quash the charge sheet dated 06.04.2010 made in C.C.No.364 of 2010 on the file of Judicial Magistrate No.I, Villupuram in Cr.No.15 of 2008, District Crime Branch, Villupuram.

(In all the Crl.O.Ps)

For Petitioners: Mr.Alex Raj

for Mr.R.Gururaj

For Respondent : Mr.B.Ramesh Babu

Government Advocate (Crl.Side)

COMMON JUDGMENT

All these Criminal Original Petitions are filed under section 482 of Cr.P.C. to quash the final report filed in C.C.No.364 of 2010 on the file of the learned Judicial Magistrate No.I, Villupuram by the accused 1 to 7/petitioners.

2.The petitioner in Crl.O.P.No.23241 of 2011 is the 1st Accused, the petitioners in Crl.O.P.No.23242 of 2011 is the Accused Nos.6 to 7 and the petitioners in Crl.O.P.No.23243 of 2011 is the Accused Nos.2 to 5 in C.C.No.364 of 2010. As the above Crl.O.Ps are filed questioning the same charge sheet filed by the respondent herein against the petitioners for the offence under Sections 240, 465, 467, 468 r/w 120 (B) and 34 of I.P.C., this Court decided to dispose of all the criminal original petitions through this Common Judgment.

3.In all the above Crl.O.P.s the contention of the petitioners is that the respondent police has registered a case in Crime No.15 of 2008 on the basis of the complaint lodged by one Rajamani against the petitioners herein for the offences under Sections 420, 465, 467, 468 r/w 120(B) and 34 of I.P.C. After conducting investigation, final report has been filed by the respondent police against the petitioners/ accused No.1 to 7.

4.According to the learned counsel for the petitioners, the defacto-complaint has given a criminal color to the Civil dispute and the same is liable to be quashed. The above complaint was made by the defacto-complaint only to pressurize the petitioners to yield the defacto complaint in a property dispute. Admittedly there are three civil suits pending in respect of the subject matter of the property. It is the contention of the learned counsel for the petitioners that the disputed properties mentioned in the final report stood in the name of the wife of the 1st Accused which she got under court auction sale. After the death of his wife, the said properties are being maintained by the 1st Accused. The perusal of charge

sheet would not make out any case against the petitioners herein. Hence, they prayed of quash the above Calendar Case pending against the petitioner.

5.Per contra, the Learned Government Advocate (Criminal Side) appearing for respondent herein would submit that the 1st Accused is the father of the Accused Nos:2 to 7 and all of them have colluded with each other, cheated the defacto-complaint by involving in a joint criminal conspiracy, created forged documents and thereby created an impression to believe the forged documents as genuine one. All the accused with a common intention to grab the property of the defacto-complainant, created false documents and hence they all committed offence punishable under Sections 420, 465, 467, 468 r/w 120 (B) and 34 of I.P.C.

6.The respondent Police after conducting proper investigation and obtained statements from witnesses, come to the conclusion that all the accused knowing fully well, with a malafide intention created forged documents and thereby committed the above offence, filed final report and the same was taken on file in C.C.No.364 of 2010 by the learned Judicial Magistrate No.I, Villupuram. Prima facie case is made out against the petitioners and therefore the question of quashment of charge sheet does not arise. Hence the Learned Government Advocate prays this court to dismiss the above quash petition.

7.I heard Mr.Alex Raj for Mr.R.Gururaj, learned counsel for the petitioners and Mr.B.Ramesh Babu, learned Government Advocate (Criminal Side) for the respondent in all the Criminal Original Petitions and entire materials available on record are perused.

8.In so far as the quash petitions are concerned, our High Court and the Hon'ble Apex Court time and again held that the inherent Powers conferred upon the High Court under section 482 of Cr.P.C should be used sparingly in an appropriate cases only.

9.Now coming to the case on hand, the perusal of First Information Report and Final Report would show that there is ample evidence against the petitioners and prima facie case is also made out against the petitioners. Therefore, it is necessary for the petitioners to face the ordeal of trial and the charges against them cannot be quashed which require full-fledged trial. In view of the above, I am of the considered

opinion that it is not a fit case to exercise the inherent Powers conferred upon this Court under section 482 of Cr.P.C., hence the above criminal original petitions will have no nexus to stand.

10. In the result, all the above Criminal Original Petitions are disposed of with the following directions:

a) The appearance of the petitioners/accused Nos.1 to 7 are hereby dispensed with, unless their presence is required by the Court for their appearance.

b) The petitioners are directed to appear before the trial court at the time of questioning and trial.

c) As the C.C. is of the year 2010, the learned trial Magistrate is directed to dispose of the above C.C.No.364 of 2010 within a period of four months from the date of receipt of a copy of this order.

Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

vs

To

1. The Judicial Magistrate No.I,
Villupuram.

2. The Station House Officer,
District Crime Branch,
Villupuram.

+1cc to R.Gururaj, Advocate Sr.20071

CrI.O.P.Nos.23241 to 23243 of 2011
and

M.P.Nos.1,1,1,2,2 and 2 of 2011

srg 29/10/2018