



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:12.10.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDARCRL.O.P.(MD)No.13823 of 2017 and
Crl.M.P(MD).Nos.9288 and 9289 of 2017

1.Alagu Somasundaram
2.Kuttyan Chettiyar
3.Soma Narayana Chettiyar : Petitioners

-Vs-

1.The State rep. by
The Inspector of Police,
District Crime Branch,
Sivagangai.

2.Alagarsami : Respondent /Complainant

PRAYER: Criminal Original petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to C.C.No.1 of 2016 on the file of the learned Judicial Magistrate No.II, Sivagangai and quash the same as illegal.

For Petitioner : Mr. S.M. Sanjay

For 1st Respondent : Mr.K.S. Duraipandian
Additional Public Prosecutor

O R D E R

This petition is filed for quashing the Charge Sheet in C.C.No.1 of 2016 pending on the file of learned Judicial Magistrate No.II, Sivagangai.

2. The second respondent lodged a complaint and the case was registered in Crime No.8 of 2014 on 22.02.2014 for the alleged offences under Sections 420 and 120(b) of IPC against the petitioners herein. The petitioners are accused nos. 1 to 3.

3. The case of the petitioners is that they are the Trustees in office and that due to some dispute with regard to the office of Trusteeship, the second respondent has given a false complaint as if, the petitioners have collected some money as donation from the public to construct a new Temple Car worth about Rs.40,00,000/-, but, not accounted. Though it is revealed that



the money paid to the de facto complainant has been acknowledged in some documents, it is stated by the de facto complainant that no receipt was given to him for receipt of money.

4. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent No. 1.

5. Having regard to the specific allegations made in the complaint and the charge sheet that is now filed against the petitioners, this Court is able to see that the allegations certainly attract Sections 420 and 120(B) of IPC against the petitioners. On the basis of probabilities of the case or on the assertions of the petitioners about their non involvement, this Court cannot quash the petition on merits. No other legal ground is raised to quash the charge sheet in the criminal proceedings. The age of the petitioners and other circumstances will not certainly prove the contentions of the petitioners. This is not a case which can be termed as a proceeding if allowed, would be an abuse of process of law. Hence, this Court is not inclined to entertain this petition. Accordingly, the Criminal Original Petition is dismissed. Consequently, connected Miscellaneous petition in Crl.M.P(MD).No.9288 of 2017 is closed.

6. The learned counsel appearing for the petitioners however submitted that the appearance of the petitioners may be dispensed with.

7. However, the learned Additional Public Prosecutor on instructions submitted that Non Bailable Warrant was issued against some of the petitioners on 05.09.2017 and that it is pending.

8. The petitioners 1 and 2 state that they are 82 and 86 years old. It is contended that they are only Trustees of the temple. From the complaint also it can be seen that the amount paid by the de facto complainant has been accounted by publishing the particulars of donors. It is in that circumstances this Court is also of the prima facie view that the de facto complainant may not succeed ultimately in establishing that there was some cheating or commission of other offences. This Court is therefore, inclined to dispense with the appearance of the petitioners unless and until their presence is specifically required by an order of Court. Since it is stated that Non Bailable Warrant was issued, the petitioners are permitted to file an application to recall the warrant.

Sd/-

Assistant Registrar(AE)



To

1. The Inspector of Police,
District Crime Branch,
Sivagangai.

2. The Judicial Magistrate No.II,
Sivagangai.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.S.M.Sanjay, Advocate in SR.No.82587

trp

AE/GT/SAR2/07.11.2017/3P/5C

CRL.O.P.(MD)No.13823 of 2017 and
Crl.M.P(MD) .Nos.9288 and 9289 of 2017
12.10.2017