



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2017

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

CRL.O.P. (MD) No. 4285 of 2017

1. Chidambaram @ Kittu

2. M. Sakkiya Banu

3. J. Sulthan Allavudin

: Petitioners/Accused

-Vs-

RM. Annamalai @ Arunachalam

: Respondent/Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code to call for records and to pass an order quashing Cr.M.P.No.4637 of 2015, pending on the file of the Judicial Magistrate Court, Devakottai with costs.

For Petitioner : Mr. S. Anand Chandrasekar
for Sarvabhauman Associates

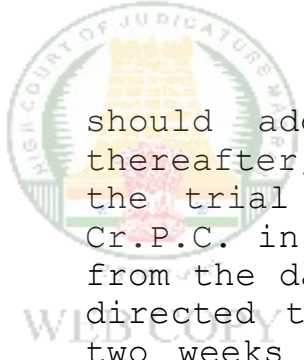
O R D E R

For the sake of convenience, the parties are referred to as complainant and the accused.

2. The complainant has initiated a prosecution in Cr.M.P.No.4637 of 2015 before the learned Judicial Magistrate, Devakottai against the accused, challenging the same, the accused are before this Court with the above prayer.

3. The learned Counsel appearing for the accused submitted that a civil suit is pending in C.S.No.83 of 1965 before the Principal Seat of the High Court, in which the property in the present complaint is also the subject matter.

4. On a reading of the private complaint, it is specifically alleged by the complainant in paragraph No.7 that the accused have fabricated a document and registered the same as Doc.No.124 of 2005 for amending survey number with *malafide* intention. This fact has to be determined only during the trial. The private complaint of this nature, the proceedings should be conducted by the Magistrate in terms of Chapter XIX - B - Cases instituted otherwise than on police report. It means that the complainant



should adduce evidence under Section 244 Cr.P.C., and only thereafter, charges can be framed. Therefore, this Court directs the trial Court to complete the proceedings under Section 244 Cr.P.C. in CrI.M.P.No.4637 of 2015 within a period of three months from the date of receipt of a copy of this order. The accused are directed to surrender before the trial Court within a period of two weeks from the date of receipt of a copy of this order and furnish a bond under Section 88 Cr.P.C. for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties each for a like sum. The accused shall give an undertaking that they will co-operate for conducting the case by engaging an advocate. Thereafter the presence of the second accused viz., M.Sakkiya Banu before the trial Court is dispensed with on condition that she gives an undertaking that she will not dispute her identity and will cross-examine the witnesses on the day when they are examined in chief. If she adopted any dilatory tactics, it is open to the trial Court to insist upon her presence.

5. With the above directions, this Criminal Original Petition is closed with liberty to the petitioner to plead for discharge under Section 245 Cr.P.C. after recording of evidence under Section 244 Cr.P.C. Consequently, the connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar(C)

/True copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate, Devakottai.

2.-do-thro' The Chief Judicial Magistrate,
Sivagangai.

+1 cc to Mr.Sarvabhauman Associates , Advocate in SR.No. 51790

ssl/das

AE/SKN/SAR2/25.04.2017/2P/4C

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