



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2017

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. (MD) No.5049 of 2017 and
Crl.M.P. (MD) Nos.3554 & 3555 of 2017

G.Palaniandi

... Petitioner/A1

-vs-

1. State Rep. through
The Sub-Inspector of Police,
Kallikudi Police Station,
Madurai District.
(Crime No.239/2014)

... Respondent/Complainant

2.M.Muthukumar

... Respondent/Defacto Complainant

3.

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records pertaining to the proceedings made in C.C.No.73 of 2015 on the file of the Judicial Magistrate, Thirumangalam and quash the same insofar as the petitioner is concerned.

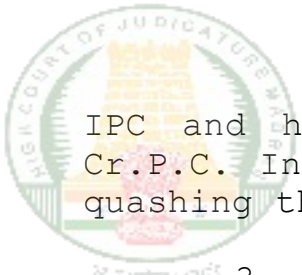
For Petitioner : Mr.D.Sadiq Raja

For R1 : Mr.A.P.Balasubramani
Govt. Advocate (Crl.Side)

O R D E R

This petition has been filed to call for the records pertaining to the proceedings made in C.C.No.73 of 2015 on the file of the Judicial Magistrate, Thirumangalam and quash the same insofar as the petitioner is concerned.

2. On the complaint lodged by the 2nd respondent, the 1st respondent police registered a case in Crime No.239 of 2014 on 18.11.2014 for the offences under Sections 406, 420 and 506(i) IPC and after completing the investigation filed a final report as Mistake of Fact on 22.01.2015 before the learned Judicial Magistrate, Thirumangalam. Notice was ordered on the defacto complainant, as the defacto complainant has filed a protest application on 31.03.2015 and the defacto complainant entered appearance. Learned Magistrate ordered notice on the accused and after recording the sworn statement of the defacto complainant has only taken cognizance of the offences under Sections 406 and 420



IPC and has adjourned the case for enquiry under Section 244 Cr.P.C. In the meantime, the petitioner is before this Court for quashing the proceedings.

3. In the considered opinion of this Court, this is a private complaint case and the procedure is that the Magistrate shall conduct enquiry under Section 244 Cr.P.C. and only thereafter, a charge can be framed against the petitioner/accused. The petitioner/accused can be discharged even at that stage. On seeing the 'B' Diary extract, the case is getting adjourned from 2015 onwards for the purpose of enquiry under Section 244 Cr.P.C. Therefore, it will serve the interest of justice, if the learned Judicial Magistrate, Thirumangalam is directed to complete the Section 244 enquiry within a period of three months from the date of receipt of a copy of this order. If the defacto complainant fails to co-operate with the Magistrate, the prosecution shall be closed.

With the above direction, this petition is closed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To:

1. The Judicial Magistrate,
Thirumangalam.
2. The Sub-Inspector of Police,
Kallikudi Police Station,
Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/s. D.SIDIQ RAJA Advocate in SR. No.54518

AR

JS/SV.MMS/9.05.2017/2P-5C

Crl.O.P. (MD) No.5049 of 2017
25.04.2017