



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.06.2017

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH  
Crl.O.P.(MD) Nos.5460 and 5461 of 2017  
and Crl.M.P.Nos.3852 to 3855 of 2017

Jeyapushpam

... Petitioner in  
Crl.O.P.No.5460 of 2017

Perumalsamy

... Petitioner in  
Crl.O.P.No.5461 of 2017

-vs-

1.The State rep. by  
the Inspector of Police,  
West Police Station,  
Kovilpatti  
Tuticorin District

2.N.Nagarajan

... Respondents in  
both petitions

**Prayer:** Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records relating to chargesheet in C.C.No.255 of 2016 on the file of the learned Judicial Magistrate, No.I, Kovilpatti, Tuticorin District.

For Petitioners : Mr.B.Prahalad Ravi

For Respondent -1 : Mr.T.Mohan  
Additional Public Prosecutor

Respondent - 2 : Mr.G.Thalaimutharasu

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**COMMON ORDER**

These are the 2<sup>nd</sup> quash applications. Earlier, the same petitioners have filed Crl.O.P.(MD) No.3790 of 2017 and when this Court was about to dismiss that petition on merits, the learned counsel withdrew the quash application. Thereafter, the same petitioners have filed the present quash applications.

2. Heard the learned counsel for the petitioners, the learned Additional Public Prosecutor and the learned counsel for the respondent.



3. The learned counsel for the petitioners submitted that there are no prima facie materials against the petitioners, who are none other than the wife and husband. He contended that earlier the same defacto complainant approached the Judicial Magistrate, No.II, Koilpatti and filed a petition under Section 156(3) Cr.P.C., which was dismissed on 30.07.2014. Thereafter, the defacto complainant has given a fresh complaint to the police. Based on which, the police registered a case in Crime No.379/2015 on 01.05.2015 and after completing the investigation have filed the present chargesheet in C.C.No.255 of 2016 before the Judicial Magistrate, No.I, Kovilpatti and therefore, the said chargesheet is an abuse of process of law.

4. In the considered opinion of this Court, just because, the Magistrate had earlier dismissed the 156(3) Cr.P.C., petition filed by the de-facto complainant, it cannot be stated that on the said ground alone, the chargesheet filed by the police, after lawful investigation, under Chapter XII of the Code, should be quashed. It is specifically alleged by the de-facto complainant that the petitioners took money from the de-facto complainant on various dates for investing them in the hotel business abroad and cheated the defacto complainant. It is also alleged that when the de-facto complainant approached the accused, both of them threatened the de-facto complainant. Thus, when there are prima facie materials in the chargesheet against the petitioners, the same cannot be quashed.

5. In the result, these quash applications are dismissed. The learned counsel for the petitioners sought permission of this Court for dispensing with the personal appearance of the petitioners before the trial Court. Considering the said submission, the presence of Jeyapushpam alone before the trial Court is dispensed with and she shall appear before the Trial Court for collecting the final report and other papers under Section 207 Cr.P.C., for framing the charges, for questioning under Section 313 Cr.P.C. and on the day of judgment. On all other dates, if she files an application under Section 317 Cr.P.C., undertaking that they will not dispute her identity and that her counsel will cross-examine the prosecution witnesses in her absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If she adopts any dilatory tactics, it is open to the Trial Court to insist upon their presence. Consequently, connected Miscellaneous Petitions are closed.

Sd /-

ASSISTANT REGISTRAR(CS-II)

/TRUE COPY/



To:

1.The Judicial Magistrate, No.I,  
Kovilpatti,  
Tuticorin District

2.The Inspector of Police,  
West Police Station,  
Kovilpatti  
Tuticorin District

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

+1 CC TO MR.G.THALAIMUTHARASU, ADVOCATE, SR NO.58896

+1 CC TO MR.B.PRAHALAD RAVI, ADVOCATE, SR NO.58975

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MAS/KKR/SAR3:14.06.2017:3P-6C

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