



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2017

WEB COPY

C O R A M

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P. (MD) Nos.9239 to 9241 of 2017
and

CRL.M.P. (MD) Nos.6279 to 6281 of 2017

CRL.O.P. (MD) No.9239 of 2017

1. Gopalakrishnan
2. Santhakumar
3. Kannan
4. Nikesh
5. Balakrishnan
6. Iyyappan
7. Paul Mani
8. Prabu @ Thanga Suresh
9. Sundar
10. Pranesh
11. Nishanth
12. Sudhan
13. Siva Kumar
14. Ajith
15. Subin, S/o.Arjunan
16. Kasi
17. Prabhakar @ Prabhakaran
18. Tamizh Selvan
19. Sree Padmanabhan
20. Somasundaram
21. Silambarasan
22. Rajesh
23. Udhayakumar
24. Kasi
25. Murugesan
26. Subin, S/o.Chellaswamy
27. Jegan
28. Sundaram
29. Murugesan
30. Jeyaselan
31. Anand Raj

.. Petitioners/Accused
1 to 13, 16 to 19, 21, 22,
24 and 25, 28, 31 to 39 and 41



1. The State represented by,
The Inspector of Police,
Eraniel Police Station,
Eraniel,
Kanyakumari District.
(Crime No.863 of 2015)

.. 1st Respondent/Complainant

2. Nicholas

.. 2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in the First Information Report comprised in Crime No.863 of 2015 on the file of the first respondent and to quash the same in so far as the petitioners concerned.

CRL.O.P.(MD)No.9240 of 2017

1. Gopalakrishnan
2. Santhakumar
3. Kannan
4. Nikesh
5. Balakrishnan
6. Iyyappan
7. Paul Mani
8. Prabu
9. Sundar
10. Pranesh
11. Nishanth
12. Sudhan
13. Siva Kumar
14. Ajith
15. Subin, S/o. Arjunan
16. Kasi
17. Prabhakar
18. Tamizh Selvan
19. Sree Padmanabhan
20. Somasundaram
21. Silambarasan
22. Udhayakumar
23. Kasi
24. Murugesan
25. Rajesh
26. Subin, S/o. Chellaswamy
27. Jegan
28. Sundaram
29. Murugesan
30. Jeyaselan
31. Aravind Raj

.. Petitioners/Accused

1 to 13, 16 to 18, 21, 22,
24, 25, 28, 31 to 39 and 41



Vs.

1. The State represented by,
The Inspector of Police,
Eraniel Police Station,
Eraniel,
Kanyakumari District.
(Crime No.864 of 2015)

.. 1st Respondent/Complainant

2. Maria Francis

.. 2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in the First Information Report comprised in Crime No.864 of 2015 on the file of the first respondent and to quash the same in so far as the petitioners concerned.

CRL.O.P.(MD)No.9241 of 2017

1. Gopalakrishnan
2. Santhakumar
3. Kannan
4. Nikesh
5. Iyyappan
6. Balakrishnan
7. Paul Mani
8. Prabu @ Thanga Suresh
9. Sundar
10. Pranesh
11. Nishanth
12. Sudhan
13. Siva Kumar
14. Ajith
15. Subin, S/o.Arjunan
16. Kasi
17. Prabhakar
18. Tamizh Selvan
19. Sree Padmanabhan
20. Somasundaram
21. Silambarasan
22. Udhayakumar
23. Rajesh
24. Kasi
25. Murugesan
26. Subin, S/o.Chellaswamy
27. Jegan
28. Sundaram
29. Murugesan
30. Jeyaselan

.. Petitioners/Accused

1 to 13, 16 to 18, 21, 22,
24, 25, 28, 31 to 39 and 41



Vs.

1. The State represented by,
The Inspector of Police,
Eraniel Police Station,
Eraniel,
Kanyakumari District.
(Crime No.865 of 2015)

.. 1st Respondent/Complainant

2. Vincent Paul

.. 2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in the First Information Report comprised in Crime No.865 of 2015 on the file of the first respondent and to quash the same in so far as the petitioners concerned.

(in all Crl.O.Ps.)

For Petitioners : M/s.L.Victoriagowri

For R-1 : Mr.K.Anbarasan,

Government Advocate(Criminal Side)

C O M M O N O R D E R

These Criminal Original petitions are filed for quashing the First Information Reports comprised in Crime Nos.863 to 865 of 2015 on the file of the first respondent in so far as the petitioners concerned.

2. Heard the learned counsel appearing for the petitioners and the learned Government Advocate(Criminal Side) appearing for the respondents.

3. The petitioners in Crl.O.P.(MD)No.9239 of 2017 are the accused Nos.1 to 13, 16 to 19, 21, 22, 24 to 25, 28, 31 to 39 and 41 in Crime No.863 of 2015 on the file of the first respondent/Inspector of Police, Eraniel Police Station, Eraniel, Kanyakumari District. The petitioners in Crl.O.P.(MD)No.9240 of 2017 are the accused Nos.1 to 13, 16 to 18, 21, 22, 24, 25, 28, 31 to 39 and 41 in Crime No.864 of 2015 on the file of the first respondent/Inspector of Police, Eraniel Police Station, Eraniel, Kanyakumari District. The petitioners in Crl.O.P.(MD)No.9241 of 2017 are the accused Nos.1 to 13, 16 to 18, 21, 22, 24, 25, 28, 31 to 39 and 41 in Crime No.865 of 2015 on the file of the first respondent/Inspector of Police, Eraniel Police Station, Eraniel, Kanyakumari District. In all cases, the criminal complaints were registered in the respective cases. The offences under Sections 147, 148, 448, 294(b), 506(ii) of I.P.C., and Section 3(1) of T.N.P.P.D.L. Act as against the petitioners in the respective cases.



4. In all the cases, the occurrence stated to have happened were on the same day, namely, 13.12.2015. The time mentioned in the First Information Reports is between 9.15 p.m., and 9.45 p.m.

5. The case of the petitioners is that due to personal vengeance between the minority living in the village and the petitioners and other Hindus in the village, the criminal complaints were given without any proof or merit. In the petitions, it is stated that the allegations found in the First Information Reports in all the three cases are false and the criminal cases were foisted against the petitioners in all the three cases purely due to personal vendetta. It is further submitted that the allegations were not only false, but also imaginative and dramatic and the same was made maliciously to wreck vengeance on the petitioners and with a view to spite them due to village feud and grudge. It is alleged that dispute between the petitioners and the defacto complainants is only because of the difference of opinion in connection with the change of name of one Peyankuzhi hamlet by the Christians residing therein.

6. All further averments in the petitions filed by the petitioners are one and the same, the allegations are specific that the cases have been registered against them purely out of personal motive. Even going by the averments made in the petitions, this Court is able to see that there are strong motive only for the petitioners to attack the defacto complainant, as it was recorded in the First Information Report to commit the offence against the defacto complainants.

7. The learned counsel for the petitioners vehemently submitted that these cases were falsely foisted against them and that therefore, the First Information Reports in all the three cases are liable to be quashed, by applying the Judgment of the Hon'ble Supreme Court. It was further submitted that the ultimate chance of conviction is bleak and that therefore no useful purpose will be served by keeping the matter at the stage of investigation.

8. This Court is not in a position to appreciate any of the contentions and legal submissions of the learned counsel for the petitioners. The reading of the First Information Reports, in all the three cases clearly indicate that there are serious allegations against the petitioners/accused in each case and the allegations would certainly indicate that commission of cognizable offence. The learned counsel for the petitioners has not referred to any material to disprove the veracity of the complaints made by the defacto complainants in all the three cases. This Court and the Hon'ble Supreme Court repeatedly held that in a quash petition, this Court cannot decide on the probabilities of the commission of offence, as any fact or material, relating to such ~~adversely affects~~ matter of evidence. It is only after a fair investigation, truth or otherwise of the allegations found in the complaints can be gone into.



9. Having regard to the submissions of the learned counsel for the petitioners which are purely factual, this Court is not in a position to give any relief or to hold the petitions as maintainable. Hence the Criminal Original petitions are dismissed. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To

1. The Inspector of Police,
Eraniel Police Station,
Eraniel,
Kanyakumari District.

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

+One c to M/s.L.Victoriagowri, Advocate, SR.No.66498

pmu
RL/4C/6P/KP/SAR2/17/8/2017

COMMON ORDER MADE IN

CRL.O.P.(MD)Nos.9239 to 9241 of 2017
and
CRL.M.P.(MD)Nos.6279 to 6281 of 2017

19.07.2017