



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.07.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P.(MD)No.9246 of 2017

and

CRL.M.P(MD)Nos.6287 and 6288 of 2017

Sowgath Ali

... Petitioner/3rd Accused**-Vs-**

1. State represented through by
The Inspector of Police,
Allinagaram Police Station,
Theni District.
(Crime NO.43 of 2012)

... Respondent/Complainant

2. Sivakumar

... Respondent/Informant

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for records in C.C.No.536 of 2013 on the file of the learned Judicial Magistrate, Theni and to quash the same as against the petitioner .

For Petitioner : Mr.R.Mathiyalagan
For R-1 : Mr.K.Anbarasan,
Government Advocate(Crl. Side).

O R D E R

This Criminal Original petition is filed for quashing the criminal case in C.C.No.536 of 2013 on the file of the learned Judicial Magistrate, Theni.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Criminal side) appearing for the first respondent.

3. A criminal case was registered by the first respondent police against the petitioner in Crime No.43 of 2012, dated 21.02.2012, and the complaint refers to the involvement of the petitioner in the crime. The Charge Sheet was also filed on 02.06.2012 for the alleged offences under Sections 147, 148, 448, 427, 294(b), 323, 324 and 506(ii) of I.P.C., and it was taken on file immediately in C.C.No.536 of 2013 on the file of the learned Judicial Magistrate, Theni.



4. The learned Government Advocate(Criminal side) on instructions submitted that the quash petition filed by the first accused was dismissed.

5. It is to be noted that the only contention of the petitioner is that there is a civil dispute between the petitioner/third accused and the defacto complainant and in relation to that the defacto complainant had a motive against the petitioner and gave a false complaint against the petitioner with an ulterior motive. The truth or otherwise of the complaint cannot be decided at this stage on the basis of self service statements. Except the statement of the petitioner, the petitioner has not produced any material to establish the case of the petitioner, that the petitioner did not commit any offence, as found in the Charge Sheet. The contentions of the petitioner are all matters of evidence and this Court cannot entertain the quash petition. Merely on the basis that the petitioner has made out a case on probabilities, the Criminal Original petition to quash the charge sheet cannot be permitted. Hence, the Criminal Original petition is dismissed.

6. The learned counsel for the petitioner seeks liberty to dispense with the appearance of the petitioner. The personal appearance of the petitioner before the Court is dispensed with unless or otherwise, it is specifically required by the Court. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate, Theni.
2. The Inspector of Police,
Allinagaram Police Station,
Theni District,
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.R.MATHIYALAGAN, ADVOCATE IN SR No. 66313

PMU

TE/SKN-RSK/SAR-III : 08/08/2017 : 2P/5C