



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:19.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P. (MD) No.9267 of 2017

and

CRL.M.P (MD) Nos.6296 and 6297 of 2017

1.Selvi @ Samanusu Mary

2.A.Siva Sankar

... Petitioners/ Accused No.1 & 6

-Vs-

State represented through by

1.The Inspector of Police,
(Crime Division),
Cantonment Police Station,
Trichy City.

...Respondent/Complainant

2.V.Gopinath

... Respondent/
Defacto Complainant

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.69 of 2016 on the file of the Judicial Magistrate Court No.II, Trichy District, and to quash the same as against the petitioners.

For Petitioners : Mr.N.Mohideen Basha

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.69 of 2016 on the file of the Judicial Magistrate Court No.II, Trichy District, as against the petitioners.

2. Heard the learned counsel appearing for the petitioners and the learned Government Advocate(Crl. Side) appearing for the first respondent.

3. The petitioners are the accused Nos.1 and 6 in C.C.No.69 of 2016 on the file of the learned Judicial Magistrate No.II, Trichy. As against the petitioners, a Charge Sheet was filed for the offence under Sections 419, 447, 465, 467, 468, 471, 420, 294(b),



506(i) and 120(b) of I.P.C.

4. The learned counsel for the petitioners submitted that the petitioners filed a civil Suit before the District Munsif Court, Trichy, in O.S.No.25 of 2010, for restraining the defendant therein not to interfere with the possession. However, after the filing of the civil Suit, the defendant in the suit gave the complaint. It is stated that pursuant to the said complaint, the petitioners were summoned by the respondent police on few occasions and the petitioners were constrained to file a petition seeking a direction to the respondent police not to harass in Crl.O.P.No.15658 of 2012. However, the criminal complaint was registered in Crime No.1572 of 2013. It was thereafter the petitioners have approached this Court. The petitioners referred to some facts for the purpose of impressing this Court that the petitioners are not involved. It is submitted that the criminal case is motivated. This Court is not in a position to appreciate the contentions, having regard to the specific allegations found in the complaint as well as in the Charge Sheet that is now filed.

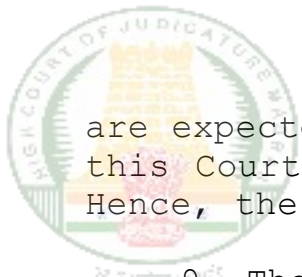
5. The learned counsel for the petitioners relied upon the order passed in **M.P.(MD)No.1 of 2014 in Crl.O.P.(MD)No.4746 of 2014, dated 16.04.2014**. The petitioners earlier filed a petition to quash the First Information Report. In the Criminal Original petition filed before this Court, the following Interim Order was passed:-

" Filing of final report alone is stayed."

6. It is on the basis of the Interim Order granted by this Court earlier, the learned counsel for the petitioners submitted that the filing of the final report is contumacious and the Charge Sheet is also liable to be quashed for the same ground. This Court is aware of the position that the Court which passes an order has inherent power to give effect to such order under Section 151 of Cr.P.C. But I am afraid to apply the same principle in these proceeding for obvious reasons.

7. The learned counsel for the petitioners also admitted that the Contempt petition filed by the petitioners was also closed. The petitioners may have a good case to pursue against the respondent police for committing Contempt of Court. However, the factual position does not enable the petitioners to quash the charge sheet.

8. It is also pertinent to mention that in criminal case, the State is the prosecuting agency and expected to see that the person who is guilty of the offence, get the punishment. The Interim Order granted in favour of the individual can never be a ground to quash the criminal case. Since all the criminal cases



are expected to see its logical end in accordance with law. Hence this Court is not inclined to quash the First Information Report. Hence, the Criminal Original petition is dismissed.

9. The learned counsel for the petitioners submitted that the presence of the petitioners may be dispensed with.

10. Considering the fact that the first petitioner is a widow and her son, namely, the second petitioner is employed in Chennai, the personal appearance of the petitioners is dispensed with, unless or otherwise it is specifically required by the lower Court. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate Court No.II, Trichy District,

2.The Inspector of Police, (Crime Division),
Cantonment Police Station, Trichy City.

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

+1cc to M/s.N.Mohideen Basha,Advocate,SR.66442

CRL.O.P. (MD) No.9267 of 2017

and

CRL.M.P (MD) Nos.6296 and 6297 of 2017

19.07.2017

pmu

KK/SVMMS/SAR1-22.08.2017-3P-5C