



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2017

CORAM

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**THE HON'BLE MR.JUSTICE S.S.SUNDAR**

Crl.O.P.(MD) No.9890 of 2017 and  
Crl.M.P(MD).No.6737 of 2017

Kasturi Kannan

... Petitioner

-Vs-

1. State rep. by  
The Inspector of Police,  
D4, Koodal Pudur Police Station,  
Madurai District.

2.R. Alamelu Mangai

... Respondents

**Prayer:** Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the case in Crime No.226 of 2015 on the file of the first respondent police and quash the same.

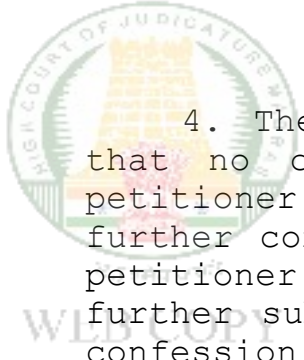
|                |   |                                                   |
|----------------|---|---------------------------------------------------|
| For Petitioner | : | Mr.V. Pasumpon                                    |
| For R1         | : | Mr.K.Anbarasan,<br>Government Advocate(Crl.side). |

### **O R D E R**

This Criminal Original petition is filed to call for the records pertaining to the case in Crime No.226 of 2015 on the file of the first respondent police and quash the same.

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

3. This petition is filed to quash the FIR in Crime No.226 of 2015, on the file of the first respondent Police, which was registered on the basis of the complaint about the theft of articles. Though the petitioner's name was not found in FIR, it is stated that on the basis of the confession statement, based on materials and investigation, the petitioner's name was included.



4. The learned counsel appearing for the petitioner submits that no case is made out as against the petitioner, as the petitioner was never identified by the parties concerned. It is further contended that no other materials is produced to show the petitioner's involvement in the alleged occurrence. It is further submitted that under Section 25 of the Evidence Act, the confession of accused is not admissible in evidence and therefore, the petitioner cannot be implicated on the basis of his own confession.

5. The petitioner cannot file a petition to quash the FIR at this stage. The case is registered for the offences under Sections 457 and 380 of IPC in Crime No.226 of 2015. The petitioner's name is not found in the FIR as there was no eye witness. The admissibility or otherwise and the materials collected and the statement obtained from the petitioner and others will be considered either at the time of filing charge sheet or at the time of trial and not at the stage of the FIR. For the purpose registering the case, it is enough that the allegations refer to a cognizable offence. The confession statement obtained by the police is relevant if any recovery is made and the petitioner cannot seek to quash the FIR on the ground of in-sufficiency of material or admissibility of statement obtained from the petitioner or any other person in connection with crime.

6. Accordingly, the Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-II)

/True copy/

Sub Assistant Registrar

To

1. The Inspector of Police,  
D4, Koodal Pudur Police Station,  
Madurai District.
2. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

TRP

PSM/SKN-RSK/SAR2/22.08.2017/2P/3C