



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL OP(MD)No.13317 of 2016

and

CRL MP(MD)Nos.6070 & 6225 of 2016, 2976 of 2017

WEB COPY

1.S.Naveen Vishnu
2.N.Selvakumar
3.A.Balasubramani
4.R.Devarajan
5.S.Sivasankaran

... Petitioners/Accused 1-5

Vs.

1. The Inspector of Police,
Palani Town Police Station,
Dindigul District.

... 1st Respondent/Complainant

2. Baskaran

... 2nd Respondent /De-facto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, call for the records relating to the impugned FIR in Crime No.721 of 2015 on the file of Inspector of Police, Palani Town Police Station, Dindigul quash the same.

For Petitioners	: Mr.Veera Kathiravan, Senior Counsel for C.Jeganathan
For R1	: Mr.K.Anbarasan Government Advocate(Crl.Side).
For R2	: Mr.R.Gandhi

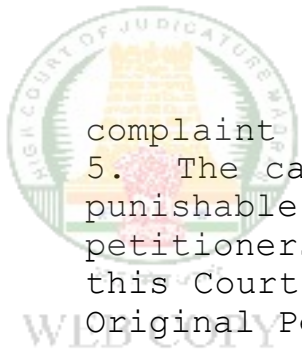
O R D E R

This Criminal Original Petition has been filed to quash the impugned FIR in Crime No.721 of 2015 on the file of the Inspector of Police, Palani Town Police Station, Dindigul.

2.Heard the learned Senior Counsel appearing for the petitioners and the learned Government Advocate(Criminal side) appearing for the 1st respondent and learned counsel appearing for the 2nd respondent.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The 2nd respondent, namely, the de-facto complainant lodged a



complaint as against the petitioners who are accused numbers 1 to 5. The case was registered in Cr.No.721 of 2015 for the offences punishable under Section 406 IPC. It is stated that the petitioners have earlier filed CrI.O.P.(MD)No.2266 of 2016 and this Court permitted the petitioners to withdraw the said Criminal Original Petition. The order of this Court reads as follows:

"When this Court is not inclined to quash the First Information Report registered in Crime No.721 of 2015 on the file of the first respondent, the learned counsel appearing for the petitioners seeks permission of this Court to withdraw this Criminal Original Petition and he has also made an endorsement to that effect.

2.In view of the endorsement made by the learned counsel appearing for the petitioners, this Criminal Original Petition is dismissed as withdrawn. Consequently, the connected miscellaneous petition is also dismissed."

4.Having regard to the fact that withdrawal of the earlier petition was only on the ground that this Court is not inclined to quash the FIR, the learned Senior Counsel for the petitioners himself admitted that the order of this Court stands in the way of maintaining the second application for quashing the same FIR.

5.The learned Senior Counsel relied upon the judgement of the Hon'ble Supreme Court, reported in **(2008) 8 SCC 673** in the case of **DSP, SB CID, Chennai Vs K.V.Rajendran and Others** and he fairly conceded that the judgment is not applicable to this case of nature, where the withdrawal of CrI.O.P earlier is not simpliciter and it was due to the opinion expressed by this Court, not to entertain the quash petition earlier. Hence this Court accepts the position that 2nd application for quashing the FIR after withdrawing the earlier petition for the same relief is not maintainable, unless there is a change of circumstances or any other ground, which is not available to the petitioner earlier. In that view of the matter this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar



To

The Inspector of Police,
Palani Town Police Station,
Dindigul District.

+ 1 CC TO M/S.VEERA ASSOCIATES IN SR No.78455
+ 1 CC TO MR.Mr.R.Gandhi, ADVOCATE IN SR No.78160
dss/cmr
MK/SV MMS/SAR-1/26.10.2017/3P/4C

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