

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.27093 of 2018

and

CrI.M.P.Nos.15642 and 15644 of 2018

1.Venkatesh @ Venkatesan, (A-34)
S/o.Muthalu

2.Senthamizhselvan, (A-30)
S/o.Muthalu

3.Ezhumalai, (A-41)
S/o.Pakkiri

4.Jayaseelan, (A-28)
S/o.Muthalu

5.Durai, (A-55)
S/o.Pakkiri

6.Viji @ Vijayan, (A-20)
S/o.Durai

7.Shanmugasunder, (A-19)
S/o.Adhimoolam

8.Madhan, (A-32)
S/o.Arumugam

... Petitioners/ Accused Nos. 1 to 8

Vs.

1.Union Territory of Puducherry Rep. by
The Sub Inspector of Police,
Sedrapet Police Station,
Sedrapet, Puducherry.
(Crime No.20/2018)

.. Respondent/Dejure-Complainant

2.R.Rajalakshmi,
W/o.Prasath @ RajendraPrasath ..Respondent/Defacto-Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in C.C.No.200 of 2018 pending on the file of the Learned Judicial Magistrate-IV, At Puducherry and quash the same.

For Petitioners : Ms.Prakash Adiapadam

For Respondents : Mr.Bhavani Chakravarthi (for R1)
Public Prosecutor (Puducherry)

O R D E R

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.200 of 2018, pending on the file of the Judicial Magistrate-IV, Puducherry.

2. It seen from records that based on the complaint given by the 5th petitioner, the 1st respondent has registered an F.I.R. in Crime No.19 of 2018 on 16.04.2018. The 2nd respondent has also given a complaint against all these petitioners and an F.I.R. was registered by the respondent Police against these petitioners in Crime No.20 of 2018. Both the cases were investigated by the same investigation officer. Insofar as the Crime No.20 of 2018 is concerned, the final report has been filed against 9 persons for an offence under sections 143,148,294(b),326,354 B, 506(ii) of IPC r/w section 149 of IPC., and the same was taken on file in C.C.No.200 of 2018. Similarly, in Crime No.19 of 2018, the respondent Police have filed a final report against 8 persons for the offence under sections 143,148,294(b),323,324,354 B, 506(ii) of IPC r/w section 149 of IPC., and the same has been taken on file for in C.C.No.227 of 2018. Now, both the calendar cases are pending before the learned Judicial Magistrate-IV, Puducherry.

3. The learned counsel for the petitioner raised several factual issues in order to demonstrate that the entire complaint is false and the same has been given only as a counter blast for the complaint given by the 5th petitioner against the accused persons. The learned counsel also brought to the notice of this Court, the entire medical records in this regard. The learned counsel also submitted that there is political influence in this case and therefore, the Police have foisted a false case against these petitioners.

4.The learned Public Prosecutor (Puducherry) representing

the first respondent Police would submit that there are two complaints and both the complaints have been investigated and independent final reports have been filed by the respondent police and the same was also taken on file by the Court below. The learned counsel would further submit that both the cases will have to be tried simultaneously by the Court below and independent Judgment will have to be rendered in both the cases on the same date. Therefore, the learned counsel would submit that this court cannot interfere with one calendar case since it will prejudice the other case which is pending before the same Court. The learned counsel also submitted that some time limit may be fixed for disposal of both the cases.

5.This Court has carefully considered the submissions made on either side.

6. The issues raised by the learned counsel for the petitioners are all factual and this Court cannot get into these factual issues in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. That apart, both the case and counter case has ended up in final report and the same has been taken on file before the Court below. Therefore, this court cannot proceed further with the quash petition insofar as one calendar case is concerned. Both the cases will have to be necessarily tried by the Court below and independent orders will have to be passed in both the cases. In cases of this nature, this court cannot entertain a petition to quash the proceedings insofar as one case is concerned since it will have a direct impact on the other pending case. Both the cases are arising out of very same incident and therefore in a case of this nature, both the cases must be directed to be tried simultaneously.

7.This Court is therefore not inclined to interfere with the proceedings pending before the Court below.

8.The learned counsel for the petitioner would submit that 1st, 3rd and 5th petitioners are Government servants and their presence may be dispensed with before the Court below. The presence of the above petitioners viz., 1st, 3rd and 5th are dispensed with and they shall be represented by a counsel. The 1st, 3rd and 5th petitioners shall be present before the Court below at the time of framing of charges, at the time of questioning under Section 313 of Cr.P.C and at the time of passing Judgment. The counsel representing the 1st, 3rd and 5th petitioners shall cross examine the witnesses on the same day when they are examined in chief. The 1st, 3rd and 5th petitioners shall not dispute the identity of any of the witnesses.

9.This Criminal Original Petition is disposed of with a direction to the Court below to dispose of C.C.No.200 of 2018

and C.C.No.227 of 2018 by conducting a simultaneous trial, within a period of six months from the receipt of the copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

rri/rm

To

1. The Sub Inspector of Police,
Sedrapet Police Station,
Sedrapet,
Puducherry.
(Crime No.20/2018)
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.Prakash Adiapadam, Advocate SR.No.79663
+1cc to Mr.*, Advocate SR.No.
+1cc to Public Prosecutor for puducherry SR.No.79704

CRL.O.P.No.27093 of 2018
and

CrI.M.P.Nos.15642 and 15644 of 2018

VBA(CO)
GMY(13/12/2018)

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