



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2018

CORAM:

THE HON'BLE MR. JUSTICE P. RAJAMANICKAM

CRL.O.P. (MD) No. 3423 of 2018

and

M.P (MD) No. 1613 of 2018

WEB COPY

1. Seelan

2. Kanagarani

... Petitioners

-vs-

1. The Sub-Inspector of Police,
Panakudi Police Station,
Tirunelveli District.

2. The Inspector of Police,
Panakudi Police Station,
Tirunelveli District.

3. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

4. Mariapushbam

... Respondents

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to set aside the order dated 31.01.2018 made in Crl.M.P.No.364 of 2018, on the file of the learned Judicial Magistrate, Valliyoor, and allow the Criminal Original Petition.

For Petitioners : Mr.G.Mohankumar

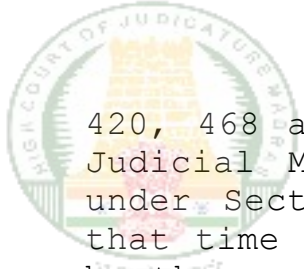
For RR 1 to 3 : Mr.Prabhu Ramachandran
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed by the petitioners, to set aside the order passed by the learned Judicial Magistrate, Valliyoor in Crl.M.P.No.364 of 2018, dated 31.01.2018.

2. Heard Mr.G.Mohankumar, learned counsel appearing for the petitioners and Mr.Prabhu Ramachandran, learned Government Advocate (Crl.side) appearing for the respondents no. 1 to 3.

3. The learned counsel appearing for the petitioners has submitted that the 4th respondent herein has filed a private complaint against the petitioners herein stating that the petitioners have committed offences punishable under Sections 406,



420, 468 and 471 of I.P.C. He further submitted that the learned Judicial Magistrate has forwarded the complaint to the police under Section 156 (3) Cr.P.C, for registering the F.I.R and at that time he has observed in his order that the evidence produced by the complainant would show that the facts are true. He further submitted that since the learned Judicial Magistrate has already come to the conclusion that these petitioners have committed offences, then there is no meaning in conducting the case before the same Magistrate.

4.The learned Government Advocate (Crl.Side) has submitted that based on the order passed by the learned Judicial Magistrate in Crl.M.P.No.364 of 2018, a case has been registered in Panakudi Police Station, in Crime No.100 of 2018 for the offences punishable under Sections 406, 420, 468, 471 of I.P.C.

5.The impugned order passed by the learned Judicial Magistrate, Valliyoor, dated 31.01.2018, is perused. In the said order in paragraph no.2, the learned Judicial Magistrate has stated that the oral and documentary evidence produced by the petitioner would show that the alleged occurrence is true. Further he has stated that already sworn statement was recorded. Once sworn statement is recorded, the Magistrate cannot invoke the power under Section 156(3) Cr.P.C. After recording sworn statement he has to take cognizance of the case and thereafter if there is any enquiry and that should be only under Section 202 Cr.P.C. Any how, in this case, the Judicial Magistrate has forwarded the complaint to the police and the police also registered an F.I.R. So, this petition has become infructuous.

6.It is made clear that at the time of final disposal of the case, the Judicial Magistrate should not be influenced by the observations made by him in the order passed in Crl.M.P.No.364 of 2018.

7.With the aforesaid observations, this Criminal Original Petition is dismissed as infructuous. Consequently, connected M.P (MD)No.1613 of 2018, is closed.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate, Valliyoor.

2. The Sub-Inspector of Police,
Panakudi Police Station,
Tirunelveli District.



3. The Inspector of Police,
Panakudi Police Station,
Tirunelveli District.

4. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

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

+1cc to Mr.D.Nallathambi, Advocate Sr.No.53719

DAS

VB/SKN/RSK/SAR1/04.04.2018/3P/7C

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