



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Cr1.O.P.(MD).No.6748 of 2018

1.Sathik @ Sathik Ali @ Shahul Hameed
2.Syed Sulaiman Sait
3.Rafik @ Mohamed Rafik ... Petitioners/Accused Nos.1 to 3

Vs.

1.State through the Inspector of Police,
Tenkasi Police Station,
Tirunelveli District.
(In C.C.No.36 of 2018) ... Respondent/Complainant
2.Malik ... Respondent/Defacto Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records of Charge Sheet in C.C.No.36 of 2018, on the file of the Learned Judicial Magistrate, Tenkasi and quash the same as illegal.

For Petitioners : Mr.S.M.A.Jinnah
For R1 : Mr.R.Anandharaj
For R2 : Mr.K.Kaushikan

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.36 of 2018, on the file of the Judicial Magistrate, Tenkasi.

2.The learned counsel appearing for the petitioner would submit that this petition has been filed to call for the records in C.C.No.36 of 2018, pending on the file of the learned Judicial Magistrate, Tenkasi for the offences under Sections 147, 448, 323 of IPC and Section 4 of Tamil Nadu Prohibition of Women Harassment Act. He would further submit that the petitioners and the defacto complainant are relatives and that the dispute has also been compromised between them. He further submitted that though there are several legal grounds raised, he had also filed this petition seeking to quash the proceedings based on the joint compromise memo. He would fairly submit that though the defacto complainant has agreed to compromise the matter with the petitioners, the respondent police are now threatening the defacto complainant not to compromise the matter.



3. Mr. K. Kaushikan, learned counsel appearing for the second respondent would submit that it is true that the second respondent has entered into a compromise with the petitioners/accused, but he has no instruction with regard to the appearance before this Court.

4. At this juncture, the learned counsel for the petitioner would submit that in such circumstances, a direction may be issued to the learned Judicial Magistrate, Tenkasi to complete the trial within a time frame fixed by this Court.

5. The learned Additional Public Prosecutor on instructions would submit that the case is posted on 26.11.2018 for appearance of the accused.

6. In view of the above, this Court directs the learned Judicial Magistrate, Tenkasi if all the accused appeared on the date on 26.11.2018, the Magistrate shall furnish the copies to the accused and concluded the trial as expeditiously as possible, preferably within a period of four months from 26.11.2018.

7. At this juncture, the learned counsel for the petitioners would submit that the presence of the petitioners may be dispensed with before the trial Court.

8. Accepting the said submission, the presence of the petitioners before the trial Court shall be dispensed with on condition that they shall be present for receiving charge sheet, for initial questioning and for answering charges, at the time of questioning under Section 313 of Cr.P.C and passing of judgment.

9. The petitioners are further directed to give an undertaking in the form of affidavit that the Counsel representing them will cross examine the prosecution witnesses on the day they are examined in chief. The petitioners shall not dispute the identity of the witnesses. The petitioners shall appear before the Court in the event their presence is insisted by the trial Judge for the purpose of identification. If the petitioners adopt any dilatory tactics, it is open to the Trial Court to insist for their appearance and deal with the petitioners in accordance with the judgment of Supreme Court of India, in State of Uttar Pradesh Vs. Shambunath Singh, reported in JT 2001(4) SC 319.

10. With the above directions, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar (Crl. Side)

/True Copy/



To

1.The Judicial Magistrate,
Tenkasi.

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

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

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19.11.2018

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