



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

CrI.O.P. (MD) .No.7321 of 2018

and

CrI.M.P (MD) Nos.3480 and 3481 of 2018

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1.C.Gunavathi
2. M.R.Chandrasekaran ... Petitioners/Accused 1 & 2
Vs.

1. The State Rep. by
The Inspector of Police
Sivakasi East Police Station
Virudhunagar District
Crime No.78 of 2013 ...1st Respondent/Complainant

2. Edward Josuva ... 2nd Respondent/Defacto Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the charge sheet in C.C.No.16 of 2017 on the file of the learned Judicial Magistrate, Sivakasi in Crime No.78 of 2013 on the file of the first respondent Police and quash the same as illegal in respect of the petitioners.

For Petitioners: Mr.S.Muthumalairaja

For Respondent : Mr.R.Anandharaj

No.1

Additional Public Prosecutor

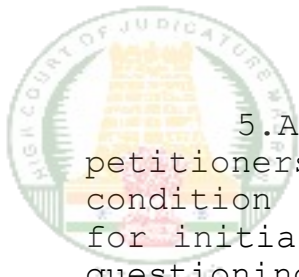
ORDER

This petition is filed to quash the proceedings in C.C.No.16 of 2017 on the file of the learned Judicial Magistrate, Sivakasi in so far as the petitioners herein are concerned.

2.Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the first respondent.

3. In the considered view of this court, the grounds raised by the petitioners are purely factual in nature. The said grounds can be raised only before the Court below, in the course of proceedings and the Court below shall consider the same on its own merits and inaccordance with law.

4.Therefore, there is no merit in this petition. Hence this Criminal Original Petition is dismissed. At this juncture, the learned counsel for the petitioners would pray that the presence of the petitioners before the court may be dispensed with.



5. 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 charges sheet, for initial questioning and for answering charges, at the time of questioning under Section 313 of Cr.P.C and passing of judgment.

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6. The petitioners are further directed to give an undertaking in the form of affidavit that the counsel representing them will cross examine the respondent and complainant and her 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 if their presence is insisted by the trial Judge for the purpose of mediation. 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 (2001)4 SCC 667.

7. In view of the above, this Criminal Original Petition is closed. Consequently, connected CrI.M.P.(MD)No.3481 of 2018 is ordered in respect of the petitioners and CrI.M.P.(MD)No.3480 of 2018 is closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The Judicial Magistrate, Sivakasi
2. The Chief Judicial Magistrate,
Virudhunagar, (for Information)
3. The Inspector of Police
Sivakasi East Police Station
Virudhunagar District
4. The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai.

+1CC to Mr.S.Muthu Malai Raja, Advocate, SR.No.97317

CrI.O.P.(MD).No.7321 of 2018

and

CrI.M.P(MD) Nos.3480 and 3481 of 2018

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