



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 11.09.2018
CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WEB COPY

CrI OP(MD)No.16490 of 2016
and
CrI MP(MD)No.8080 of 2016

1.Manimegalai

2.Rajendran

... Petitioners

Vs.

1.The Inspector of Police,
District Crime Branch,
Karur District, Karur.
[Crime No.20 of 2014]

2.Ravi Kumar

3.Mohan

...Respondents

[Respondent No.3 impleaded vide order
dated 11.09.2018 made in CrI MP(MD)
No.6871 of 2018]

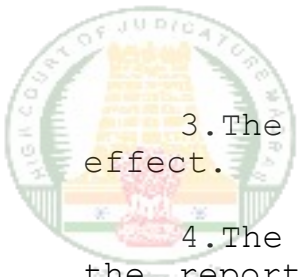
PRAYER:- Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to CCNo.64 of 2015 dated 05.12.2014 on the file of the Judicial Magistrate No.II, Kulithalai and quash the same.

For Petitioner : Mr.V.Illanchezian
For Respondent No.1 : Mr.K.Suyambulinga Baharathi,
Government Advocate (crl side)
For Respondent No.2 : Mr.N.Madhava Govindan
For Respondent No.3 : Mr.T.Lenin Kumar

ORDER

This petition has been filed challenging the order passed in the discharge petition by the Court below.

2.The petitioners are arrayed as A-3 and A-4 in this case. The respondent Police filed a final report against five accused persons for the offence under Sections 420, 506 (I) and 506(ii) r/w 34 of IPC and Section 76 of Chit Fund Act, 1982. The entire allegation against the petitioners is that they have utilized the money collected for the chit and have purchased a property in their name.



3.The statements given by the witnesses are also to the same effect.

4.The learned Counsel for the petitioners strongly relies upon the report submitted by the Additional Superintendent of Police, Karur to the Joint Secretary to the Government, wherein he has explained in detail the source of money through which the petitioners purchased the property. The learned Counsel would further submit that the petitioners have nothing to do with the alleged offence and the first petitioner is a Court staff and the second petitioner is working in the Secretariat. They have been roped in this case, only because they are Government employees.

5.The learned Government Advocate submitted that prima facie materials are available against the petitioners and Section 34 of IPC has also been added in the final report. Therefore, at this stage, the petitioners cannot seek for discharge from the case.

6.One of the victims represented by the learned Counsel also submitted that the petition filed by A-2 before this Court was also dismissed by this Court on an earlier occasion.

7.This Court has gone through the materials placed on record. The respondent Police is completely relying upon the statement given by the witnesses in the course of investigation. The petitioners are relying upon the material, which do not form part of the investigation as the report was submitted by the Additional Superintendent of Police, to the Additional Secretary to Government. This material at the best can be used by the petitioners only in the Course of trial before the Court below. At the stage of framing charges, the materials placed by the accused cannot be looked into by the Court. The Court can only look into the final report and the statement of the witnesses in order to come to a prima facie conclusion to frame charges.

8.In the facts and circumstances, this Court is not able to interfere with the order of the Court below. However, considering the age of the petitioners and also the position held by them, the presence of the petitioners shall be dispensed with and they will have to appear before the Court below for answering the charges, at the time of questioning under Section 313 of CrPC and at the time of passing 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. If the petitioners adopt any dilatorial 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) s SC 319.



10. Taking into account the fact that CC is of the year 2015, there will be a direction to the Judicial Magistrate No.II, Kulithalai, to complete the proceedings within a period of three months from the date of receipt of copy of this order and report compliance to the Registry, immediately after completion of the proceedings.

11. The criminal original petition is disposed of with the above direction. Consequently, CrI MP (MD) No. 8080 of 2016 is closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The Judicial Magistrate No.II,
Kulithalai
2. The Inspector of Police,
District Crime Branch,
Karur District, Karur.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.N.Madhava Govindan, Advocate, SR.No.83845
+1CC to Mr.T.Lenin Kumar, Advocate, SR.No. 83907
+1CC to Mr.V.Illanchezian, Advocate, SR.No.84267

CrI OP (MD) No.16490 of 2016
11.09.2018

DSK
ES/RP/SAR 1/08.10.2018/3P/7C