



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.09.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C(MD)No.366 of 2018 and Crl.O.P(MD) No.9993 of 2017

and

Crl.M.P(MD) Nos.5128 ,5129 of 2018 and 6826,6827 of 2017

WEB COPY

1. Kannan
2. Balamurugan
3. Muniyasamy
4. Duraipandi
5. Pandi
6. Saravanan
7. Paramasivan

... Petitioners in both
Crl.R.C(MD) and Crl.O.P(MD)

Vs.

1. The State represented by
The Sub Inspector of Police
Ettayapuram
Tuticorin
(Crime No.173 of 2017)

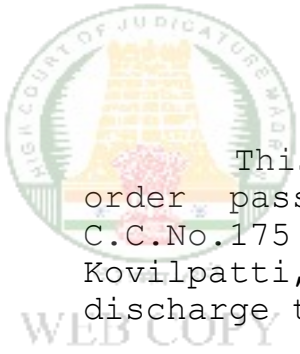
2. Velthai ...Respondents in both

Prayer in Crl.R.C(MD)No.366 of 2018: Revision filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the records from the lower court and to set aside the order passed in Cr.M.P No.1642 of 2018, dated 18.04.2018 in C.C.No.175 of 2017 on the file of the Judicial Magistrate No.II, Kovilpatti, Thoothukudi, Thoothukudi District and consequently discharge the petitioners.

Prayer in Crl.O.P(MD)No.9993 of 2017: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to call for the records in C.C. No. 175 of 2017 on the file of the learned Judicial Magistrate No.I, Kovilpatti, Tuticorin District and quash the same.

For Petitioners : Mr.V.Kathirvelu
Senior Counsel
for Mr.S.K.Prabhu

For Respondent : Mr.A.Robinson,
Government Advocate (Crl.side).

COMMON ORDER

This Criminal Revision case has been filed to set aside the order passed in Cr.M.P No.1642 of 2018, dated 18.04.2018 in C.C.No.175 of 2017 on the file of the Judicial Magistrate No.II, Kovilpatti, Thoothukudi, Thoothukudi District and consequently discharge the petitioners.

2. This Criminal Original Petition has been filed to call for the records in C.C. No. 175 of 2017 on the file of the learned Judicial Magistrate No.II, Kovilpatti, Tuticorin District and quash the same.

3. Heard the learned counsel appearing for the revision petitioners /petitioners and the learned Government Advocate (Crl.Side) appearing for the first respondent in Crl.RC(MD) No. 366 of 2018 and Crl.O.P(MD) No.9993 of 2017.

4. The contention raised by the petitioners are that no case has been made out from out of the investigation conducted by the respondent police in Crime No. 173 of 2017 to frame charge against them. The short of materials to frame charges not considered by the trial court and dismissed the discharge petition filed under Section 239 of Cr.P.C. Trial court has not gone in detail about the materials placed by the prosecution whether it make out the case for the said offence. The trial court erroneously dismissed the discharge petition, though the material does not indicate the accused persons guilty,.

5. The ground on revision as well and original petition raised by the accused persons herein does not clear the test required for discharging the accused at FIR Stage. Since prima facie materials are available against them it has to be proved or disproved in the trial.

6. The petitioner is at liberty to raise all the plea raised in this petition during the course of trial. The appearance of the petitioner is sought to be dispensed with. The trial court shall entertain petition filed under Section 205 of Cr.P.C or 317 of Cr.P.C filed by the accused persons and may insist for their appearance when it is necessary for the Court to record their presence.

7. Therefore both revision petition in Crl.R.C.No.366 of 2018 and the original petition in Crl.O.P(MD) No.9993 of 2017 stand dismissed. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)



To

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1. The Judicial Magistrate No.II
Kovilpatti.
 2. The Sub Inspector of Police
Ettayapuram
Tuticorin
 3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 1 CC TO Mr.K.Prabhu , ADVOCATE IN SR No. 83430.
 - AAV
 - DS SV SAR-1 16 10 2018 3P/ 5C

Crl.R.C(MD)No.366 of 2018
and Crl.O.P(MD) No.9993 of 2017