



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P.[MD].No.15649 of 2018

and

Crl.M.P.[MD].Nos.6932 and 6933 of 2018

1.Sadagopan @ Sankaralingam

2.Shamsudeen

...Petitioners

Vs.

1.State Represented by

The Inspector of Police,
Sankarankovil Town Police Station,
Tirunelveli District.
[Crime No.1064 of 2005]

2.Ganesan

...Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records in C.C.No.248 of 2011 on the file of the learned Judicial Magistrate Court, Sankarankovil and to quash the same as against the petitioner.

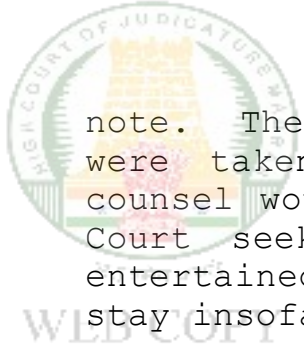
For Petitioner: Mr.V.Kannan

For R-1 : Mr.M.Chandrasekaran
Additional Public Prosecutor

ORDER

This criminal original petition has been filed seeking to quash the final report in C.C.No.248 of 2011, pending on the file of the learned Judicial Magistrate, Sankarankovil. The petitioners are arrayed as A-2 and A-3 in the said case.

2. The learned counsel for the petitioners would submit that the wife of the de-facto complainant had executed a promissory note in favour of A1 and in the said promissory note the petitioners have signed as witnesses. The learned counsel would submit that the signatory of the promissory note has not filed a complaint and in fact it is her husband who has set the law in motion. The learned counsel would further submit that a suit was filed in O.S.No.59 of 2005 by A-1 against the wife of the second respondent for recovery of money, based on the said promissory



note. The said suit has been dismissed as abated, since no steps were taken to bring the legal representatives. The learned counsel would further submit that A-4 has already approached this Court seeking to quash the final report and this Court has entertained the same in CrI.O.P.[MD].No.2925 of 2018 and granted stay insofar as that particular petitioner is concerned.

3. The learned Government Advocate would submit that the police after investigation have filed a final report. Before filing of the final report, the police have obtained the expert opinion and has also taken statements from the witnesses and *prima facie* signature in the promissory note and the sample signature are varying. Therefore, the learned counsel would submit that the strong suspicion has been created against these petitioners also, since they are admittedly the witnesses in the said promissory note.

4. This Court finds that the C.C., is of the year 2011 and till date there has been absolutely no progress in the case. The petitioners are senior citizens aged about 64 years and 75 years respectively. For the last seven years the trial itself has not started. There are materials to show that A-1 to A-3 will have to face the trial and thereafter prove their innocence.

5. Taking into consideration the facts and circumstances of the case, there shall be a direction to the learned Judicial Magistrate, Sankarankovil, to dispose of the C.C.No.248 of 2011, within a period of three months from the date of receipt of copy of this order.

6. The presence of the petitioners before the trial Court shall be dispensed with, on condition that they shall be a present for answering the charges, at the time of questioning under Section 313 of Cr.P.C., and at the time of passing judgment.

7. The learned counsel representing the petitioners will examine the prosecution witnesses on the day they are examined in chief. The petitioners shall not dispute the identity of the witnesses. The petitioners are at liberty to raise all the grounds that has been raised in this criminal original petition, before the Court below.

8. Hence, the Criminal Original Petition is disposed of with the above directions. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)



To

1. The Judicial Magistrate,
Sankarankovil.

(The Judicial Magistrate Sankarankovil is directed to report compliance after completion of the proceedings)

2. The Inspector of Police,
Sankarankovil Town Police Station,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO MR.V.KANNAN, ADVOCATE IN SR NO. 81970

SJI

BU/DS/RP/SAR-I : 26.09.2018 : 3P/5C

Cr1.O.P.[MD].No.15649 of 2018
and
Cr1.M.P.[MD].Nos.6932 and 6933 of 2018
03.09.2018