



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2018

CORAM:

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P. (MD) No.16118 of 2018

and

Crl.M.P. (MD) .Nos.7139 and 7140 of 2018

1.Alagesan
2.Manikandan
3.Alagar

.. Petitioners/Accused Nos.1 to 3
-Vs-

1.State rep. by
The Inspector of Police,
Manapparai Police Station,
Trichy District.
In Crime No.2 of 2014

.. 1st Respondent/Complainant

2.Sathishkumar

.. 2nd Respondent/Defacto complainant

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, call for the records pertaining to the Charge Sheet in C.C.No.183 of 2014 pending before the learned Judicial Magistrate, Manapparai, Trichy District, pending disposal of the quash petition.

For Petitioner : Mr.A.Joel Paul Antony
For Respondents : Mr.K.Suyambu Linga Bharathi for R1
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed by the petitioner to quash the final report.

2.The learned counsel for the petitioner would submit that in this case there was a case and counter. The respondent police chose to file a final report only insofar as the case that was given in Crime No.2 of 2014 and the complaint that was given by the petitioners which was registered as Crime No.5 of 2014 was not investigated by the respondent police. Therefore, in order to establish the defence, the petitioners filed an application before the Court below in Crl.M.P.No.2380 of 2018 to reopen the case and to let in evidence on the side of the defence and mark the FIR in Crime No.5 of 2014, the Discharge Summary and the Encumbrance Certificate. This petition was dismissed by the Court below by an order, dated 24.07.2018. Even though this petition has been filed to quash the final report, in view of the fact that the evidence on the side of the prosecution has already been completed and the petitioners have been questioned under Section 313 of Cr.P.C., the



learned counsel would submit that he is confining the challenge in this petition only insofar as the order passed by the Court below in CrI.M.P.No.2380 of 2018, wherein the petitioners were denied the opportunity to reopen and mark certain documents from their side.

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3.The learned Government Advocate would submit that the respondent police have investigated the complaint given by the petitioners and have also filed a closure report in Crime No.5 of 2014. It is not clear as to whether a RC notice was served on the petitioners. The learned Government Advocate would further submit that at this stage, this Court should not interfere with the proceedings of the Court below.

4.Even though the petitioners have sought for quashing the final report, in view of the fact that the case has reached the final argument stage, this Court will not exercise its jurisdiction under Section 482 of Cr.P.C to quash the final report. However, this Court is of the considered opinion that the petitioners will have to be given a fair opportunity to defend themselves in the case. More particularly, due to the fact that the petitioners have also given a complaint to the very same respondent police and the same has been registered in Crime No.5 of 2014 as against the defacto complainant in this case. The Court below ought to have given an opportunity to the petitioners to reopen and to let in evidence with regard to the documents sought to be marked by the petitioners. The order of the Court below is therefore liable to be set aside.

5.The order passed by the Court below in CrI.M.P.No.2380 of 2018, dated 24.07.2018 is hereby set aside. The Court below is directed to reopen the case and permit the petitioners to let in evidence and mark documents on their side in order to substantiate their defence. The Court below shall fix a date for the examination on the side of the petitioners in chief and cross on the side of the prosecution and the same must be concluded on the same day. Thereafter, the Court below shall proceed further to hear the final arguments.

6.Accordingly, this Criminal Original Petition is disposed of with the above direction. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS-IV)



To

1.The Judicial Maistrate, Manapparai, Trichy District.

2.The Inspector of Police,
Manapparai Police Station,
Trichy District.

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

+1 CC To MR.A.JOEL PAUL ANTONY, Advocate SR. NO.85427

CRL.O.P. (MD)No.16118 of 2018

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