



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2018

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P. (MD) No.10075 of 2013

and

M.P. (MD) No.1 of 2013

WEB COPY

1.K.Kumar,

2.P.K.Velu

3.S.A.Shanmugam

4.S.Jegadeeswaran

... Petitioners/ Accused

Vs.

1.The Inspector of Police,

Thillai Nagar Police Station,

Tiruchirapalli.

(Cr.No.17/2013)

... 1st Respondent/Complainant

2.A.Arun

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.17/2013 on the file of the 1st respondent police and quash the same.

For Petitioners : Mr.M.Saravanan

For Respondent 1 : Mr.A.Robinson

Government Advocate (Crl. Side)

Reg. Respondent 2: Not Ready Notice

O R D E R

This criminal original petition is filed to call for the records in Crime No.17/2013 on the file of the 1st respondent police and quash the same.

2.The petitioners herein are the accused 2 to 4 and 6 in Cr.No.17/13 for the offence punishable under Sections 143, 147, 188, 294(b) and 353 r/w 3(1) of Tamilnadu Property Prevention of Damage and Loss Act. Now, these petitioners filed the application under Section 482 of Cr.P.C. to quash the FIR which was registered against them. Previously, at the time of filing this application the interim order was granted in favour of them. The only contention raised by the learned counsel appearing for the petitioners is that in the FIR there is no overt act against these petitioners.

3.On the other hand, the learned Government Advocate (Crl. Side) would submit that as of now after completing the investigation, charge sheet has been forwarded to the Additional Director of Prosecution for getting an opinion. According to him, the petitioners are arrayed as accused as per the statements given by the witnesses. The submissions made by the learned Government Advocate (Crl. Side) clearly reveals the involvement of the petitioners based on the statements given by the witnesses. In general the factual aspects has to be decided only at the time of trial. In the judgment rendered in Ajay Kumar Das Vs. State of



Jharkhand and another reported in 2011 (12) SCC 319, the Hon'ble Apex Court has held as follows:

''15. allegations will have to be dealt with by the court at different stages for which liberty would be available to the appellant. In our considered opinion, this is not the stage when the court would make an inquiry into the factual position to find out as to whether or not the appellant is guilty of the charges or not. The appellant, in our considered opinion, will have sufficient opportunity to place his entire case before the Court at the time of framing of the charge since charge-sheet had already been filed against the appellant also holding that a case under Section 304-B and Section 34 is made out. We do not wish to enter into the factual details for any discussion on them at this stage as the same may prejudicially affect the case of the appellant.''

Hence, according to the verdict of our Honourable Apex Court, in this case also the involvement of the petitioners has to be identified based on the evidence given by the witnesses in the trial court. In other words, the learned counsel appearing for the petitioners did not show any illegality committed by the investigating officer in the alleged offence. Accordingly, this petition does not have any merit. However, since the case is registered in the year of 2013, the respondent police is directed to file a charge sheet before the concerned Judicial Magistrate on or before 20.02.2018 and thereafter the concerned Judicial Magistrate is directed to dispose of the matter within a period of 6 months after receiving the charge sheet.

4. With the above direction this criminal original petition is disposed of.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
Thillai Nagar Police Station, Tiruchirapalli.
 2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1cc to Mr. M. SARAVANAN, Advocate, SR.44520

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and
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