



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL.O.P.(MD)Nos.19663 & 19878 of 2013 and
M.P.(MD)Nos.1, 1 & 2 of 2013

K.Muthukumar Pillai ... Petitioner/5th Accused
in Crl.O.P.(MD)No.19663 of 2013

David Raja Bose ... Petitioner/Accused No.1
in Crl.O.P.(MD)No.19878 of 2013

Vs.

S.Abraham Thambi Raja ... Respondent/Complainant
in both petitions.

Common Prayer: Petitions are filed under Section 482 of Cr.P.C., to pass an order to call for records in C.C.No.317 of 2013 on the file of the learned Judicial Magistrate, Eraniel, and quash the same.

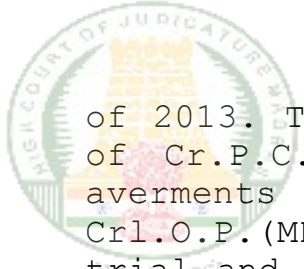
For Petitioner : Mr.K.N.Thampi
(in Crl.O.P.(MD)No.19663 of 2013)
Mr.S.Palanivelayutham
(in Crl.O.P.(MD)No.19878 of 2013)
For Respondent : Mr.K.Vinayagan
(in both petitions)

COMMON ORDER

The petitioners have filed these Criminal Original petitions for quashing the criminal case in C.C.No.317 of 2013 on the file of the learned Judicial Magistrate, Eraniel.

2. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent.

3. The petitioner in Crl.O.P.(MD)No.19878 of 2013 is figuring as first accused in C.C.No.317 of 2013 on the file of the learned Judicial Magistrate, Eraniel. The respondent has filed a private complaint under Section 200 of Cr.P.C., as against the petitioners and three others. In the said private complaint, there are specific averments against the petitioners in Crl.O.P.(MD)No.19878



of 2013. Therefore, in exercise of jurisdiction under Section 482 of Cr.P.C., this Court is not in a position to go into the averments of the said private complaint. The petitioner in Crl.O.P.(MD)No.19878 of 2013 will have to necessarily face the trial and establish his innocence in the manner known to law. It is also the case of the respondent/complainant in the private complaint that the petitioner in Crl.O.P.(MD)No.19878 of 2013 had physically hit the respondent and caused him injuries. For all these reasons, the Criminal Original petition in Crl.O.P.(MD) No.19878 of 2013 is dismissed.

4. In so far as the petitioner in Crl.O.P.(MD)No.19663 of 2013 is concerned, he is figuring as fifth accused. It is seen that he was aged about 85 years even at the time of occurrence and he must have by now crossed the age of 90 years. The respondent had originally lodged the First Information Report in respect of the said occurrence and the name of the petitioner in Crl.O.P.(MD) No.19663 of 2013 did not even figure in the First Information Report.

5. This Court is of the view that since the petitioner in Crl.O.P.(MD)No.19663 of 2013 has crossed the age of 90 years, permitting the prosecution to continue in this nature, will be an abuse of legal process. Therefore, the Criminal case in C.C.No.317 of 2013 on the file of the learned Judicial Magistrate, Eraniel, is quashed as against the petitioner in Crl.O.P.(MD)No.19663 of 2013 alone. This order is passed considering the age of the petitioner Crl.O.P.(MD)No.19663 of 2013. Accordingly, the Criminal Original petition Crl.O.P.(MD)No.19663 of 2013 is allowed. Consequently, connected Miscellaneous petitions are closed.

sd/
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

pmu
To
The Judicial Magistrate, Eraniel.

+1cc to Mr.K.N.Thampi, Advocate in SR.No.64823
+1cc to Mr.K.Vinayagan, Advocate in SR.No.648211

GJM/RSK/SKN/SAR-4-30.5.18-2p-4c

CRL.O.P. (MD) Nos.19663 & 19878 of 2013 and
M.P. (MD) Nos.1, 1 & 2 of 2013
28.04.2018