



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 24.01.2018

Delivered on : 01.02.2018

CORAM

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

CrI.O.P. (MD) No.5913 of 2013

and

M.P. (MD) Nos.1 and 2 of 2013

1.S.Velmurugan
2.K.Ganesan
3.Palanichamy
4.Murugadoss

... Petitioners

Vs.

P.Murugan

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the impugned private complaint in C.C.No.442 of 2012, on the file of the Chief Judicial Magistrate Court, Dindigul, and quash the same.

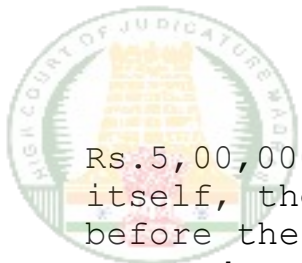
For Petitioners : Mr.K.Appadurai

ORDER

The petitioners herein are Accused Nos.7 to 10 in C.C.No.442 of 2012 on the file of the Chief Judicial Magistrate Court, Dindigul. Now, this petition has been filed by the petitioners seeking the relief to quash the abovesaid case.

2.Admittedly, before the alleged occurrence, the petitioners herein and the respondent were running a Trust in the name and style of ''Sivasakthi Educational Trust'', in which, the petitioners 3 and 4 are having the position of Trustees. At the time of presenting the complaint before the learned Chief Judicial Magistrate, Dindigul, the respondent herein was having the position of Managing Trustee. At the same time, in the earlier dates, the petitioners 3 and 4 were having the position of Trustees in the Trust.

3.On going through the entire averments made in the private complaint, it is alleged that on 10.12.2011 at 5 p.m., due to the instigation of the petitioners, the other accused, who are all police officers arrayed as A1 to A6 in the private complaint took the respondent in their custody and obtained a cheque for a sum of



Rs.5,00,000/- in favour of the first petitioner. In the complaint itself, the respondent herein alleged that a civil suit is pending before the Sub-Court, Periyakulam, between the petitioners and the respondent. Accordingly, the entire averments mentioned in the private complaint filed by the respondent is a matter of evidence. If anybody is aggrieved against the act committed by the other individual, he is having the right to lodge a private complaint before the competent court. In this case also, in a way above, the respondent lodged a complaint before the Chief Judicial Magistrate Court, Dindigul. Except with the factual aspects, the petitioners herein do not say anything about the illegality committed by the learned Chief Judicial Magistrate, Dindigul, in taking cognizance of the case mentioned above. The contention raised by the petitioners that sanction of prosecution for the other accused in this case is necessary, is not at all a ground for allowing this petition, since this petition is not filed by the other accused in this case.

4.Further, the learned counsel appearing for the petitioners submitted that the respondent herein without lodging a complaint before the police authorities, has straightaway lodged a complaint against the petitioners only due to the animosity and crunch over the petitioners. With regard to this contention, it is obvious as per Section 200 Cr.P.C., any person aggrieved over the offence committed by the petitioners, is entitled to file a private complaint before the competent Court. So, filing the private complaint straightaway in the Court of the Chief Judicial Magistrate, Dindigul, is not prohibited by any other law.

5.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.'



6. So, if the petitioners are aggrieved against the allegations levelled by the respondent, they are having liberty to place the materials before the learned Chief Judicial Magistrate, Dindigul, at the time of trial. Since all the allegations levelled by the respondent is based on the question of fact not under the question of law, this petition filed by the petitioners is not having any valid ground for quashing the case pending against them. Hence, this Criminal Original Petition is dismissed. However, as the case is of the year 2012, the learned Chief Judicial Magistrate, Dindigul, is directed to dispose the same within a period of four months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

The Chief Judicial Magistrate,
Dindigul.

+1cc to Mr.K.Appadurai, Advocate Sr.No.45682

SMN2

VB/MR/SAR2/12.02.2018/3P/3C

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