



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 04.01.2018

DELIVERED ON : 11.01.2018

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

CrI.O.P.(MD)No.8866 of 2013

and

M.P.(MD)No.2 of 2013

S.Thilakaraj

... Petitioner

Vs.

1.The Inspector of Police,
Vellichandhai Police Station,
Nagercoil, Kanyakumari District.

2.Krishnammal

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the proceedings in Charge Sheet No.34 of 2010, dated 20.04.2010, on the file of the Judicial Magistrate Court, Eraniel.

For Petitioner : Mr.G.Prabhu Rajadurai

For R1 : Mr.K.S.Duraipandian
Additional Public Prosecutor

For R2 : No Appearance

ORDER

The petitioner herein is the accused in C.C.No.34 of 2010, dated 20.04.2010, on the file of the Judicial Magistrate Court, Eraniel.

2.This petition is filed to quash the entire proceedings of the above said charge sheet. The petitioner is charged for the offences of theft under Section 380 IPC.

3.The learned counsel appearing for the petitioner contended that during the time of investigation, no gold Thali chain was recovered from the petitioner. Further, there is no explicit evidence or witnesses addressing the theft, which was said to have been done by the petitioner. Furthermore, he submitted that only due to presumption, the first respondent herein laid a charge



sheet against this petitioner. Accordingly, he prays for quashing the charge sheet.

4.As far as Section 482 Cr.P.C. is concerned, it should be exercised very sparingly to prevent the abuse of process of any Court or otherwise to secure the ends of justice. It should not be exercised as against the express bar of the law and engrafted in any other provisions of Cr.P.C., particularly, it can be invoked with respect to any matter covered by the specific provision of the Code.

5.In the above circumstances, the Code of Criminal Procedure provides power to Magistrate or a Judge for conducting an enquiry based on the charge sheet filed by the police officers. Now, without entering into the said provisions as enumerated in the Code of Criminal Procedure, the petitioner herein being the accused in the above charge sheet, straight away approached this Court for quashing the entire proceedings of the said charge sheet. Furthermore, the grounds raised by the petitioner is entirely rest upon the factual aspects.

6.In this regard, reliance can be made to the judgment of the Hon'ble Apex Court in Ajay Kumar Das Vs. State of Jharkhand and another reported in 2011 (12) SCC 319, wherein it has been 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.'

7.Applying the principles laid down in the abovesaid judgment, this Court also came to the conclusion that the remedy available to the petitioner is only in the Judicial Magistrate Court, Eraniel, in which, now the charge sheet is pending. Hence, approaching this Court is unwarranted. However, the impugned charge sheet is filed in the year 2012, due to granting interim order in favour of the petitioner, no progress is made in the



abovesaid charge sheet. Thus, this Court wanted to give some directions to the learned Judicial Magistrate, Eraniel, to dispose of the same.

8. Accordingly, this Criminal Original Petition is dismissed with a direction to the learned Judicial Magistrate, Eraniel, to dispose of C.C.No.34 of 2010, within a period of six months from the date of receiving a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate,
Eraniel.

2.The Inspector of Police,
Vellichandhai Police Station,
Nagercoil, Kanyakumari District.

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

+1cc to Mr.G.PRABHU RAJADURAI,Advocate,SR.42127

CrI.O.P. (MD)No.8866 of 2013
11.01.2018

SMN2

KK/SV MMS/SAR 1/23.01.2018/ 3P- 5C/