

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.32831 of 2013 and
M.P.Nos.1 & 2 of 2013 and
Crl.M.P.No.12081 of 2019

1. Raman
2. Mahendran

... Petitioners

Vs.

The State rep. by
The Sub-Inspector of Police,
G-2, Periyamet Police Station,
Chennai - 600 003.

.... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to quash the proceedings as against these petitioners in C.C.No.3827 of 2012 on the file of the II Metropolitan Magistrate Court, Egmore, Chennai-8.

For Petitioners: M/s.Balasingh Ramanujam

For Respondent : Mr.R.Surya Prakash
Government Advocate (Crl.Side)

ORDER

The respondent police registered a case in Crime No.659 of 2012 against the petitioners and two others for the offence punishable under Sections 452, 341, 324, 506(ii) r/w 34 of IPC and Section 3 of TNPDL Act. After investigation laid a charge sheet before the Court below, which was taken on file in C.C.No.3827 of 2012. During pendency of the above case, the accused 3 and 4 have filed the present criminal original petition seeking to quash the above calendar case.

2 The learned counsel appearing for the petitioners would submit that the name of the petitioners have not been mentioned in the FIR and they were impleaded only based on the confession statement recorded from A1 and any confession recorded before the police is not admissible in evidence. Further there was civil dispute between the defacto complainant and the accused

and a suit was also instituted against the defacto complainant, which is pending before the learned II Assistant City Civil Court, Chennai, in O.S.No.3476 fo 2012 and injunction against the defacto complainant was also granted in I.A.No.8438 of 2012 on 15.06.2012. Therefore, in order to wreck vengeance, the defacto complainant has filed false case against the petitioners. Even the statement recorded from the defacto complainant under Section 161 of Cr.P.C. does not speak anything about the involvement of the petitioners and therefore it is a fit case to quash the calender case.

3 The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that already charges were framed against the accused 1 to 4 including these petitioners and trial has also commenced and so far 6 witnesses were examined out of 12. There is prima facie materials to establish the charges levelled against the petitioners and the points raised in the present petition is a matter for trial. Therefore the present petition is liable to be dismissed.

4 Heard the learned counsel appearing on either side and perused the materials available on record.

5 These petitioners have been arrayed as A3 & A4 in the above calender case. FIR is not an encyclopedia non mentioning of the petitioners name in the FIR is not a ground to quash the calender case, since, on subsequent investigation, it was found that the petitioners are also involved in the offence . The statement recorded by the Investigating Officer under Section 161 of Cr.P.C also reveals that there is allegations against these petitioners also. Whether the confession statement is admissible in evidence or no is a matter for trial. Further, during chief examination, the witnesses had spoken about the involvement of the present petitioners and there is no ground to quash the calender case.

6 In the result, the criminal original petition is dismissed as devoid of merit and substance. The petitioners are at liberty to raise their defence during trial. Consequently connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

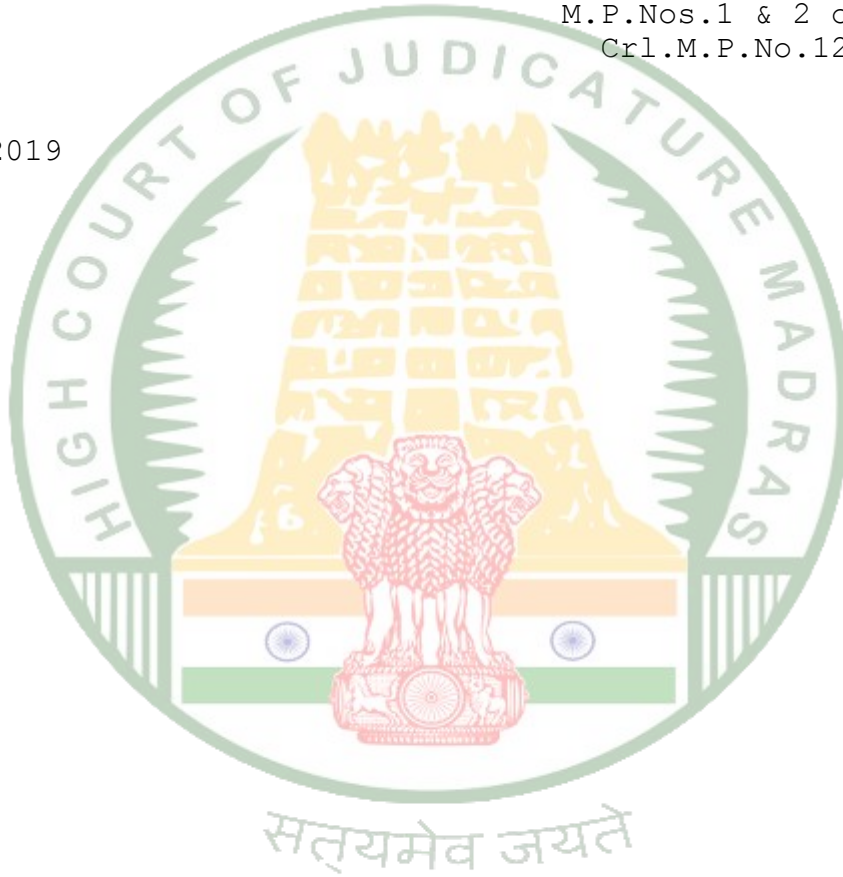
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To

1. The II Metropolitan Magistrate Court, Egmore, Chennai-8.
2. The Public Prosecutor, High Court of Madras.
3. The Sub-Inspector of Police, G-2, Periyamet Police Station,
Chennai - 600 003.

Crl.O.P.No.32831 of 2013 and
M.P.Nos.1 & 2 of 2013 and
Crl.M.P.No.12081 of 2019

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