

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.6206 of 2018
and Crl.M.P.No.3116 of 2018

- 1.Eganathan
- 2.Govindaraj
- 3.Sivachandran
- 4.Chelladurai
- 5.Vijayaraghavan
- 6.Seetharaman

... Petitioners/Accused 1 to 4
6 and 7

Vs.

- 1.State rep. by,
The Inspector of Police,
Sirkali Police Station,
Nagapattinam District.
Crime No.549 of 2012

- 2.Kaliyamoorthi ... Respondents/Complanant/
Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records and quash all the proceedings pertaining to P.R.C.No.14 of 2017 on the file of the Judicial Magistrate Court, Sirkali.

For Petitioners : Mr.K.M.Subrahmanian

For R1 : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor.

For R2 : Mr.R.Shiva Kumar for
Mr.K.M.Vijayan Associates

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in P.R.C.No.14 of 2017 on the file of the Judicial Magistrate Court, Sirkali having been taken cognizance for the offences punishable under Sections 147, 148, 294(b), 324, 323, 506(ii) and 307 of IPC.

2.The learned Counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.549 of 2012 for the offences under Sections 147, 148, 294(b), 324, 323, 506(ii) and 307 of IPC, as against the petitioners and filed charge sheet in P.R.C.No.14 of 2017 before the Judicial Magistrate, Sirkali. Hence he prayed to quash the same.

3.The learned Additional Public Prosecutor would submit that there are specific allegations as against the petitioners to attract the offence under Section 147, 148, 294(b), 324, 323, 506(ii) and 307 of IPC. He further submitted that all the points raised by the petitioners have to be considered only during the trial. Therefore, he prayed to dismiss this petition.

4.Heard Mr.K.M.Subrahmanian, learned counsel appearing for the petitioners and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the first respondent and Mr.R.Shiva Kumar for Mr.K.M.Vijayan Associates, learned counsel appearing for the 2nd respondent.

5. It is seen from the charge there are specific averments to attract the offences as against the petitioners. Further it is also seen that there are materials to connect the petitioner to the offences. More over all the points raised by the petitioners have to be considered only during the trial. The petitioners at liberty to raise all the points before the Court below during the trial.

6.It is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in CrI.A.No.579 of 2019 dated 02.04.2019 in the case of Devendra Prasad Singh Vs. State of Bihar & Anr., as follows:-

" 12.So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13.In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

6.In view of the above discussion, this Court is not inclined to quash the proceedings in P.R.C.No.14 of 2017. However, considering the case is of the year 2012, the trial Court is directed to complete the trial proceedings within a period of four months from the date of receipt of copy of this Order.

7.With the above directions, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst. Registrar

//True Copy//
Sub Asst. Registrar

To

1.The Judicial Magistrate Court,
Sirkali.

2.The Inspector of Police,
Sirkali Police Station,
Nagapattinam District.

3.The Public Prosecutor,
High Court, Chennai.

+1 CC to Mr. K.M.SUBRAHMANIAN, Advocate SR.NO.40115

+1 CC to Mr. K.M.VIJAYAN ASSOCIATES SR.NO.40083

CO(GP)
VC (03/06/2019)

Cr1.O.P.No.6206 of 2018