

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.7013 of 2019
and
Crl.M.P.Nos.3865 & 3866 of 2019

1. Thangarasu
2. Selvaraj
3. Renuka
4. Sumathi
5. Sarasa
6. Chandhira

.... Petitioners

Vs.

1. The State rep by
The Inspector of Police,
Kolathur Police Station,
Kolathur Taluk,
Salem District.

2. Prakash

.... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records and quash the C.C.No.6 of 2016 on the file of the learned Judicial Magistrate No.1, Mettur.

For Petitioners : Mr.A.Sundaravadhanan

For Respondents

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

O R D E R

This petition has been filed to quash the proceedings in C.C.No.6 of 2016 on the file of the learned Judicial Magistrate No.1, Mettur.

2. The learned counsel appearing for the petitioners would submit that the petitioners are arraigned as A1 to A6 in the above said case and there is counter case in C.C.No.12 of 2016.

For the same incident, the third petitioner lodged a complaint and the same has been taken cognizance in C.C.No.12 of 2016, in which the petitioners are complainant and witnesses. Both the proceedings are pending before the learned Judicial Magistrate No.I, Mettur and the learned Magistrate has taken simultaneous trial. On 30.11.2018 in C.C.No.12 of 2016, no witnesses are present since the other case also pending for trial.

3. In this regard, the learned counsel appearing for the petitioners relied upon the judgment reported in (2001) 2 SCC 688 in the case of Sudhir and others Vs. State of Madhya Pradesh, in which the Hon'ble Supreme Court of India held as follows :-

"11. In fact, many High Courts have reiterated the need to follow the said practice as a necessary legal requirement for preventing conflicting decisions regarding one incident. This court has given its approval to the said practice in Nathi Lal & ors. vs. State of U.P. & anr. [1990 (Supp) SCC 145]. The procedure to be followed in such a situation has been succinctly delineated in the said decision and it can be extracted here:

"We think that the fair procedure to adopt in a matter like the present where there are cross cases, is to direct that the same learned Judge must try both cross cases one after the other. After the recording of evidence in one case is completed, he must hear the arguments but he must reserve the judgment. Thereafter he must proceed to hear the cross case and after recording all the evidence he must hear the arguments but reserve the judgment in that case. The same learned Judge must thereafter dispose of the matters by two separate judgments. In deciding each of the cases, he can rely only on the evidence recorded in that particular case. The evidence recorded in the cross case cannot be looked into. Nor can the judge be influenced by whatever is argued in the cross case. Each case must be decided on the basis of the evidence which has been placed on record in that particular case without being influenced in any manner by the evidence or arguments urged in the cross case. But both the judgments must be pronounced by the same learned Judge one

after the other."

The learned counsel appearing for the petitioners further submitted that the Hon'ble Supreme Court of India issued guidelines for trial in the counter cases. Though this petition has been filed to quash the proceedings, the learned counsel appearing for the petitioners is restricted his prayer for necessary directions.

4. Considering the above facts and circumstances, the learned Magistrate is directed to conduct trial in both cross-cases one after the other. After the recording of evidence in one case, he must hear the arguments but he must reserve the judgment. Thereafter, he must proceed with the other case and after recording the evidence, he must hear the arguments and then he must reserve the judgment in that case also. Only thereafter, the learned Magistrate can dispose of the matter by two separate judgments. He can only rely the evidence recorded in that particular case. The evidence recorded in the cross case cannot be looked into. Nor can the Judge be influenced by whatever is argued in the cross case. Each case must be decided on the basis of the evidence which has been placed on record in that particular case without being influenced in the cross case. Further the Magistrate is directed to complete the trial proceedings in both cases within a period of three months from the date of the receipt of a copy of this Order and pronounce the judgments on the same day one after the other.

5. With the above directions, this Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petitions are closed.

rts

Sd/-

Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

To

1. The Judicial Magistrate Court No.1,
Mettur
2. The Inspector of Police,
Kolathur Police Station,
Kolathur Taluk, Salem District.

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3. The Public Prosecutor,
High Court of Madras,
Chennai.

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and
Crl.M.P.Nos.3865 & 3866 of 2019

Pms (CO)
Kak (02/04/2019)



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