

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.11121 of 2019
and
Cr1.M.P.No.5643 of 2019

1.S.Baskaran
2.S.Jayaprakash

... Petitioners/Accused
Nos.3 and 4

Vs.

The State rep. By
The Inspector of Police,
Vigilance and Anti Corruption
Dharmapuri District
(Crime No.1/AC/2015)

... Respondent/complainant

PRAYER:

This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records relating to the complaint in Spl.C.C.No.1 of 2019 on the file of the learned Chief Judicial Magistrate, Dharmapuri and quash the same as far as the petitioners are concerned.

For Petitioners : Mr.V.Sakkarapani

For Respondent : Mr.K.Prabakaran
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed by the petitioner/accused 3 and 4 seeking to call for the records relating to the complaint in Spl.C.C.No.1 of 2019 on the file of the learned Chief Judicial Magistrate, Dharmapuri and quash the same.

2. The learned counsel for the petitioner would submit that that learned Chief Judicial Magistrate, Dharmapuri, failed to see that the occurrence was of the year is 2010-11 but the FIR was registered only in the year 2015 and that the respondents has stated that the delay in filing the F.I.R was due to the

pendency of preliminary enquiry which proved that the the case has been falsely implicated on the petitioners. He would further submit that in the F.I.R, the total misappropriation amount is mentioned as Rs.48,750/-, but in the charge sheet the total misappropriated amount is mentioned as Rs.8,71,965/- which shows the falsity in the case. He would further submit that LW.2 in this case one M.Ilahijan, had stated that on 23.03.2011, the first accused the sanctioned the sum to five institutions whereas in the charge sheet it has been mentioned as the sum of Rs.10,50,620/- was sanctioned to three institutions only and nothing has been stated about the remaining two institutions.

3.The learned Additional Public Prosecutor would submit that no legal ground has been raised in the petition seeking to quash. He further submitted that all the grounds raised are factual in nature which can only be decided during the fair and factual trial. It is his further submission that the petitioners have not made any legal ground for quashing the proceedings.

4.This Court finds no ground to interfere with the proceedings based on the facts. All these can be raised before the trial Court at the appropriate stage. Hence this Court was about to dismiss the application.

5. At this juncture, the learned counsel for the petitioners would pray that the presence of the petitioners may be dispensed with before the trial Court.

6.Taking into consideration the submission made by the learned counsels, the presence of the petitioner is before the trial court is dispensed with.

7. The petitioners are further directed to give an undertaking in the form of affidavit that the Counsel representing them will cross examine the prosecution witnesses on the day they are examined in chief. The petitioners shall not dispute the identity of the witnesses. The petitioners shall appear before the Court in the event if their presence is insisted by the trial Judge for the purpose of identification. If the petitioners adopts any dilatory tactics, it is open to the Trial Court to insist for their appearance and deal with the petitioners in accordance with the judgment of Supreme Court of India, in State of Uttar Pradesh Vs. Shambunath Singh, reported in (2001)4 SCC 667.

8. This Criminal Original Petition stands dismissed.
Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

jrs

To

1. The Chief Judicial Magistrate, Dharmapuri
2. The Inspector of Police,
Vigilance and Anti Corruption
Dharmapuri District
3. The Additional Public Prosecutor,
Madras High Court.

+1cc to Mr.V.Sakkarapani, Advocate, S.R.No.54992

Crl.O.P.No.11121 of 2019
and
Crl.M.P.No.5643 of 2019

RSI (CO)
CS/14/08/2019



WEB COPY