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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:13.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.OP.No.19245 of 2019

and

Crl.M.P.Nos.9838 and 9839 of 2019

1. P.Thomas
2. T.Peter Samraj
3. T.Thangam
4. S.Raja

...Petitioners/Accused

-Vs-

1. State rep. by
The Inspector of Police,
B-13, Podanur Police Station,
Coimbatore - 641 023.
(Crime No.318 of 2009)

....Respondent

2. S.Sugumar

....Respondent/Defacto complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure, to call for the records and quash the proceedings in C.C.No.373 of 2017, on the file of the learned Judicial Magistrate-VII, Coimbatore.

For Petitioners: Mr.R.Ramamoorthy

For Respondents: Mr.T.Shanmuga Rajeswaran - R1
Govt. Advocate(Crl.side)

O R D E R

The Criminal Original Petition has been filed by the petitioners to call for the records and quash the proceedings in C.C.No.373 of 2017, on the file of the learned Judicial Magistrate-VII, Coimbatore.

2. Based on the complaint given by one Sugumar/defacto complainant, the first respondent police registered a case in



Crime No.318 of 2009 against the petitioners for the offences under Section 324, 427 and 506(ii) IPC and Section 75(i)(c) of Tamil Nadu City Police Act. After investigation, the respondent police filed a charge sheet against the petitioners herein for the offences under Section 324, 427 and 506(ii) IPC and Section 75(i)(c) of Tamil Nadu City Police Act before the learned Judicial Magistrate-VII, Coimbatore and the same was taken on file in C.C.No.373 of 2017.

3. During the pendency of the case before the trial Court, the petitioners have filed the present original petition for quashing C.C. No.373 of 2017, on the file of the learned Judicial Magistrate-VII, Coimbatore.

4. 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. There is a counter case in Crime No.319 of 2009 before the respondent police. That complaint was lodged by these petitioners against the defacto complainant and others. After investigation, the respondent police has closed the case as ''mistake of fact''. Since this is a case and counter, the respondent police should have applied the same yardstick and closed this case also. Hence, the learned counsel prayed to quash the case in C.C.No.373 of 2017.

5. The learned Government Advocate (Crl. Side) appearing for the first respondent would submit that charge sheet has been filed and witnesses have also been examined by the prosecution. Therefore, this petition is not maintainable and there is no valid reason to quash the case.

6. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. side) and perused the materials available on record.

7. There are two complaints filed before the respondent police. One is filed by these petitioners against the defacto complainant and others, and another one is filed by the defacto complainant against these petitioners. Both the cases were taken on file by the respondent police. The complaint lodged by the petitioners herein was closed as mistake of fact, even on 12.05.2016 itself. The petitioners have neither filed any protest petition nor filed any private complaint before the jurisdictional Magistrate against the closure report filed by the respondent police. The case against the petitioners was



taken on file by the Magistrate even in the year 2017. After completing the legal formalities, the learned Magistrate has framed charges and trial was commenced and examined four witnesses viz., P.W.1 to P.W.4, so far.

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8. Considering the facts and circumstances of the case, this Court does not find any reason to quash the case in C.C.No.373 of 2017, on the file of the learned Judicial Magistrate-VII, Coimbatore and There is no merit in the Original Petition. Even the petitioners have not filed any petition invoking section 239 Cr.P.C. before the trial Court. The trial has already commenced and the prosecution has examined four witnesses. It is pertinent to note that after the complaint preferred by the petitioners against the second respondent herein, has been closed. The petitioner has not chosen to file any private complaint or protest petition. Even now the petitioners can very well prove their innocence during the trial in C.C.No.373 of 2017. There is no merit in this petition.

9. In the result, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate-VII,
Coimbatore.
2. The The Inspector of Police,
B-13, Podanur Police Station,
Coimbatore - 641 023.
3. The Public Prosecutor,
High Court, Madras.

Crl.OP.No.19245 of 2019
and

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RGN(CO)
CB(03/01/2020)