

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.15673 of 2019

and

Crl.M.P.Nos.7782 & 7784 of 2019

1.Kadar Moideen

2.Ismail

3.Siddiq

4.Mohamed Gani @ Gani Bai

5.Haj Ali

6.Abdul Kader

... Petitioners/Accused 2 to 7

Vs.

State rep., by

The Inspector of Police,
Kalpakkam Police Station,
Kancheepuram District.

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records in C.C.No.16 of 2017 pending on the file of the Judicial Magistrate, Thirukazhukundram and quash the same as against the petitioner.

For Petitioners : Mr.Murugesh Kasivel

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

सत्यमेव जयते

O R D E R

This petition has been filed seeking to quash the proceedings pending in C.C.No.16 of 2017, on the file of the Judicial Magistrate, Thirukazhukundram. The respondent police have filed a final report before the Court below against the petitioners for an offence under Sections 147, 188, 429, 120(B) I.P.C. r/w 11(L) Prevention of Cruelty Animal Act, 1960.

2.The case of the prosecution is that the Inspector of Police, Kalpakkam Police Station visited Ambedkar Nagar at about 11.00 a.m. and found that five Camels were found dead with their neck cut. When an enquiry was conducted, it came to light

that it was the accused persons who had brought these Camels and had cut their neck. Immediately an F.I.R. was registered in Crime No.168 of 2016 and after investigation a final report has also been filed.

3.The learned counsel for the petitioner submitted that the petitioners have been falsely roped in this case and there are no materials to show that it was these petitioners who were responsible for the death of the Camels. The learned counsel further submitted that the final report filed under Section 188 of Cr.P.C. is not maintainable and the position of law is well settled. The learned counsel further submitted that the continuation of the proceedings against the petitioners is an abuse of process of Court and it requires interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

4.The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that there is a strong suspicion about the involvement of the petitioners in the crime and it is based on some materials that is available before the Court below. Therefore the learned counsel submitted that the petitioners will have to face the trial and prove their innocence and there is no ground to interfere with the proceedings at this stage.

5.When the matter came up for hearing during the previous occasions, this Court after taking into consideration the entire materials that are placed on record, found that except for the suspicion, there are no strong materials that are available against the petitioners to proceed further with the trial. This Court also directed the petitioners to pay some compensation to the Society for the Prevention of Cruelty to Animals, in order to show their bonafides.

6.When the matter was taken up for hearing today, the learned counsel for the petitioners filed a memo along with a Demand Draft in favour of the Society for the Prevention of Cruelty to Animals for a sum of Rs.45,000/- (Rupees Forty Five Thousand only).

7.Taking into consideration of the facts and circumstances of the cases, this Court is of the considered view that no useful purpose will be served by keeping the proceedings pending. That part, this Court does not find any strong materials against the petitioners to make the petitioners face the ordeal of trial before the Court below. This Court also takes into consideration the gesture shown by the petitioners by paying compensation to the Society for the Prevention of Cruelty to Animals, a sum of Rs.45,000/-.

8.In view of the above, this Court comes to the conclusion that the proceedings against the petitioners can be quashed and the payment of compensation made by the petitioners can be directed to be sent to the Society for the Prevention of Cruelty to Animals. The Registry is directed to place the demand draft bearing No.498194 dated 03.07.2019, drawn in favour of Society for the Prevention of Cruelty to Animals for a sum of Rs.45,000/- before the Registrar (General), High Court, Madras and the Registrar (General) shall forward this demand draft along with a covering letter to the Society for the Prevention of Cruelty to Animals and take an acknowledgment.

9.In the result, this Criminal Original Petition is allowed and the proceedings in C.C.No.16 of 2017 on the file of the Judicial Magistrate, Thirukazhukundram, is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

vs/jas

To

- 1.The Judicial Magistrate,
Thirukazhukundram.
- 2.The Inspector of Police,
Kalpakkam Police Station,
Kancheepuram District.
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The Society for the Prevention
of Cruelty to Animals,
No.67/34, Vepery High Road,
Vepery, Chennai-7

Copy To:

1. The Registrar General,
High Court, Madras -104.

2. The Sub Assistant Registrar (Accounts)
High Court, Madras -104.

3. The Section Officer,
Accounts Section,
High Court, Madras-104

+5cc to Mr.Sahul Hameed, Advocate SR.No.55763

CrI.O.P.No.15673 of 2019
and

CrI.M.P.Nos.7782 & 7784 of 2019

SSD(CO)
GMY(26/07/2019)



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