

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.Nos.4062 of 2014 & 13340 of 2013 and
M.P.Nos.1 of 2014 & 1 of 2013

1. V.P.Malaisamy
2. Gulsar Rahman ... Petitioners in Crl.O.P.4062 of 2014

1. Gnanasekaran
2. Rajendran ... Petitioners in Crl.O.P.13340 of 2013

Vs.

1. The State rep. by
The Inspector of Police,
District Crime Branch,
Villupuram District.
(Crime No.5 of 2008)

2. Ramanathan ... Respondents in both the OPs
(R2 impleaded by order of this Court dated 12.11.2019 and
25.02.2016 in Crl.M.P.Nos.669 and 1426 of 2016 respectively)

PRAYER in both the OPs: Criminal Original Petitions filed under
Section 482 Cr.P.C. praying to call for the records in
C.C.No.117 of 2008 pending on the file of the learned Judicial
Magistrate No.II, Tindivanam and quash the charges levelled
against the petitioners.

For Petitioner :Mr.D.Selvam - in Crl.O.P.4062/14
Mr.M.Prabaharan-in Crl.O.P.13340/13

For Respondents: Ms.T.P.Savitha,
Govt. Advocate(Crl.Side) for R1 -
in both the Ops
Mr.N.Subramani - No Appearance
for R2 - in both the OPs

ORDER

The first respondent police, based on the complaint given by
the second respondent, registered a case against the petitioners
herein and others in Crime No.5 of 2008 for the offence
punishable under Sections 465, 468, 469, 471, 420 r/w 120(b) and
34 of IPC. After investigation, the first respondent police,
laid a charge sheet before the learned Judicial Magistrate

No.II, Tindivanam, which was taken on file in C.C.No.117 of 2008. Pending the above, accused nos.10 & 16 and 20 & 21 have filed these petitions seeking to quash the above calendar case against them.

2 According to learned counsel appearing for petitioners in both the petitions, there was two different occurrences between various persons. It is settled proposition of law that three different offences similar in nature between the same parties committed within one year can be clubbed together, but, when the parties are different and beyond one year, it cannot be clubbed. The learned Magistrate has failed to consider the above fact and erroneously taken cognizance on the charge sheet filed by the first respondent police. Therefore, the case in C.C.No.117 of 2008 has to be quashed as against the petitioners are concerned.

3 The learned Government Advocate (Crl.Side) would submit that based on the complaint lodged by the second respondent, the first respondent has registered case and after investigation has also filed charge sheet. The learned Magistrate after taking cognizance on the same assigned C.C.No.117 of 2008, which is pending for trial, since this Court has granted an order of stay.

4 Heard the learned counsel appearing on either side and perused the materials available on record.

5 On reading of the complaint and also the charge sheet filed by the first respondent police, it reveal that there is allegations against these petitioners also. Therefore, the defence taken by the learned counsel for the petitioners cannot be gone into in the petition under Section 482 of Cr.P.C. Since there is prima facie allegations against these petitioners, this Court is not inclined to invoke power under Section 482 of Cr.P.C and quash the calendar case.

6 Therefore, these criminal original petitions are dismissed. Consequently connected miscellaneous petitions are closed. However, the petitioners are at liberty to raise all their defence before the trial Court.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

To

1.The Judicial Magistrate No.II, Tindivanam

2.The Inspector of Police

District Crime Branch

Villupuram District

+1 CC to Mr.S. N. Subramani, Advocate sr 98175, 99079

+1 CC to Mr.D.Selvam, Advocate sr 98177.

Crl.O.P.Nos.4062 of 2014 & 13340 of 2013 and
M.P.Nos.1 of 2014 & 1 of 2013

RP(CO)
SP(21/02/2020)



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