

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.08.2019
CORAM
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
Crl.O.P No.20487 of 2019
and Crl.M.P.Nos.10532 and 10533 of 2019

1.Prem Kumar
2.Saravanan
3.Chandra
4.Chitra
5.Priya
6.Prakash

Petitioners/Accused 1 to 6

vs.

1.State rep by Inspector of Police,
Kaveripattinam Police Station,
Krishnagiri District.
(Crime No.1045 of 2017)

... 1st Respondent/Complainant

2.Rani

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to call for the entire records leading final report filed in FR-809/2018, dated 26.01.2018, filed in C.C.No.36 of 2019, on the file of the learned Judicial Magistrate No.I, Krishnagiri and quash the same.

For Petitioner :M/s.T.Panchatsaram

For Respondent :Mr.M.Mohamed Riyaz

Additional Public Prosecutor for R1

ORDER

This petition has been filed challenging the proceedings initiated by the respondent against the petitioners for an offence under Sections 147, 148, 294(b), 323, 324, 506(2), 109 of IPC.

2. The various grounds raised by the learned counsel for the petitioner are all factual in nature and the same requires appreciation of evidence in the course of the trial and the said exercise cannot be done by this Court in exercise of its jurisdiction under Section 482 of Cr.P.C. It is left open to the petitioner to raise all the grounds before the Court below

and the Court below shall consider the same on its own merits and in accordance with law. This Court does not want to interfere with the proceedings at this stage.

3. The learned counsel for the petitioners submitted that based on the complaint given by the petitioners, the respondent police has also filed a final report in the counter case and the same is pending before the same Court in C.C.No.36 of 2019. In view of this fact, this Court is not inclined to interfere with the proceedings in one of the calendar cases and both the cases will have to be necessarily tried together.

4. The learned counsel for the petitioner requested this Court to dispense with the presence of the petitioners 3,4 and 5. Taking into consideration, the facts and circumstances of the case, the presence of the petitioners 3,4 and 5 are dispensed with and they shall be represented by a counsel, who shall cross examine the witnesses on the same day, they are examined in Chief. The petitioners 3,4 and 5, shall be present before the Court below at the time of questioning under Section 313 Cr.P.C and at the time of passing of the final judgement.

5. This Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in C.C.No.36 of 2019, within a period of five months from the date of receipt of copy of this order, in accordance with the guidelines given by the Hon'ble Supreme Court in Nathilal and others Vs. State of U.P. and another reported in 1990 SCC (Cr1) Page 638 and the judgment in 1.Ganesan (A1) (Appellant in Cr1.A.No.263 of 2011) 2.Vijayasanthi (A2) (Appellant in Cr1.A.No.57 of 2004) Vs. State. rep by the Inspector of Police, R.2, Kodambakkam Police Station, Chennai (Crime No.1915 of 1998) reported in 2011 (5) CTC Page 747. Consequently, connected miscellaneous petitions are closed.

सत्यमेव जयते

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Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.I, Krishnagiri.

2.Do Thro The Chief Judicial Magistrate,
Krishnagiri.

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

+1cc to M/s.G.Punniyakotti, Advocate sr.66005

Crl.O.P No.20487 of 2019

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nr 03/09/2019



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