

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.15024 of 2017
and CrI.M.P.Nos.9482 & 9483 of 2017

1.R.Pushpalatha
2.N.Prakash Kumar

... Petitioners

Vs.

1. The Sub Inspector of Police,
Mannalurpettai Police Station,
Villupuram District.

2. P.Munniyan

... Respondents

PRAYER:

Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records to quash the case in C.C.No.459 of 2016 pending on the file of the Learned Judicial Magistrate, Thirukovilur.

For Petitioners : Mr.R.Diwakaran

For Respondents

For R1 : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor.

For R2 : Mr.R.Arun Dattan

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.459 of 2016 on the file of the Judicial Magistrate Court, Thirukovilur, having been taken cognizance for the offences punishable under Sections 294(b), 352, 332, 353 and 506(ii) of IPC.

2. 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. Without any base, the first respondent police registered a case in Crime

No.11 of 2015 for the offences under Sections 294(b), 352, 332, 353 and 506(ii) of IPC, as against the petitioners and filed charge sheet in C.C.No.459 of 2016 before the Judicial Magistrate, Thirukovilur. Hence he prayed to quash the same.

3. The learned Additional Public Prosecutor would submit that there are specific allegations as against the petitioners to attract the offence under Section 294(b), 352, 332, 353 and 506(ii) of IPC. He further submitted that there are only twelve witnesses in this case and all the points raised by the petitioners have to be considered only during the trial. Therefore, he prayed to dismiss this petition.

4. Heard Mr.R.Diwakaran, learned counsel appearing for the petitioners and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the first respondent and Mr.R.Arun Dattan, learned counsel appearing for the 2nd respondent.

5. It is seen from the charge there are specific averments to attract the offences as against the petitioners. Further it is also seen that there are materials to connect the petitioner to the offences. More over all the points raised by the petitioners have to be considered only during the trial. The petitioners at liberty to raise all the points before the Court below during the trial.

6.It is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in CrI.A.No.579 of 2019 dated 02.04.2019 in the case of Devendra Prasad Singh Vs. State of Bihar & Anr., as follows:-

" 12.So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13.In view of the foregoing

discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

7. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.459 of 2016. However, considering the case is of the year 2015, the trial Court is directed to complete the trial proceedings within a period of six months from the date of receipt of copy of this Order.

8. With the above directions, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

vv2

To

1. The Judicial Magistrate Court,
Thirukovilur.
2. Do Thro' Chief Judicial Magistrate,
Villupuram.
3. The Sub Inspector of Police,
Mannalurpettai Police Station,
Villupuram District.
4. The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.R.Diwakaran, Advocate, S.R.No.38630

CrI.O.P.No.15024 of 2017

SKV(CO)
CS/13/06/2019