

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.16735 of 2017
and M.P.Nos.10276 & 10277 of 2017

Munian

... Petitioner

Vs.

R.Pushpalatha

... Respondent

PRAYER:

Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.108 of 2017 on the file of the Judicial Magistrate, Thirukovilur and quash the same.

For Petitioner : Mr.R.Arun Dattan

For Respondent : Mr.G.Pugazhenth

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.108 of 2017 on the file of the Judicial Magistrate Court, Thirukovilur, having been taken cognizance for the offences punishable under Sections 379, 380, 403, 406, 409, 417, 420, 465, 467, 468 and 477A of IPC.

2. The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the respondent. Without any base, the learned Judicial Magistrate, Thirukovilur taken cognizance of the private complaint filed by the respondent for the offences under Sections 379, 380, 403, 406, 409, 417, 420, 465, 467, 468 and 477A of IPC. Hence he prayed to quash the same.

3. The learned counsel for the respondent would submit that there are specific allegations as against the petitioners to attract the offences under Sections 379, 380, 403, 406, 409, 417, 420, 465, 467, 468 and 477A of IPC. He further submitted all the points raised by the petitioners have to considered only during the trial. Therefore, he prayed to dismiss this petition.

4. Heard Mr.R.Arun Dattan, learned counsel appearing for the petitioner and Mr.G.Pugazhenthii, learned counsel appearing for the respondent.

5. It is seen from the private complaint filed by the respondent there are specific averments to attract the offences as against the petitioner. Further it is also seen that there are materials to connect the petitioner to the offences. More over all the points raised by the petitioner have to be considered only during the trial. The petitioner 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 Crl.A.No.255 of 2019 dated 12.02.2019 - Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors., as follows:-

"4. The only point that arises for our consideration in this case is whether the High Court was right in setting aside the order by which process was issued. It is settled law that the Magistrate, at the stage of taking cognizance and summoning, is required to apply his judicial mind only with a view to taking cognizance of the offence, or in other words, to find out whether a prima facie case has been made out for summoning the accused persons. The learned Magistrate is not required to evaluate the merits of the material or evidence in support of the complaint, because the Magistrate must not undertake the exercise to find out whether the materials would lead to a conviction or not.

5. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same. It is not necessary that a meticulous analysis of the case should be done before the Trial to find out whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein,

in the light of the statement made on oath that the ingredients of the offence are disclosed, there would be no justification for the High Court to interfere.

.....

9. Having heard the learned Senior Counsel and examined the material on record, we are of the considered view that the High Court ought not to have set aside the order passed by the Trial Court issuing summons to the Respondents. A perusal of the complaint discloses that prima facie, offences that are alleged against the Respondents. The correctness or otherwise of the said allegations has to be decided only in the Trial. At the initial stage of issuance of process it is not open to the Courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Criminal complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are prima facie made out in the complaint, the criminal proceeding shall not be interdicted."

7. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.108 of 2017. However, considering the case is of the year 2017, 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

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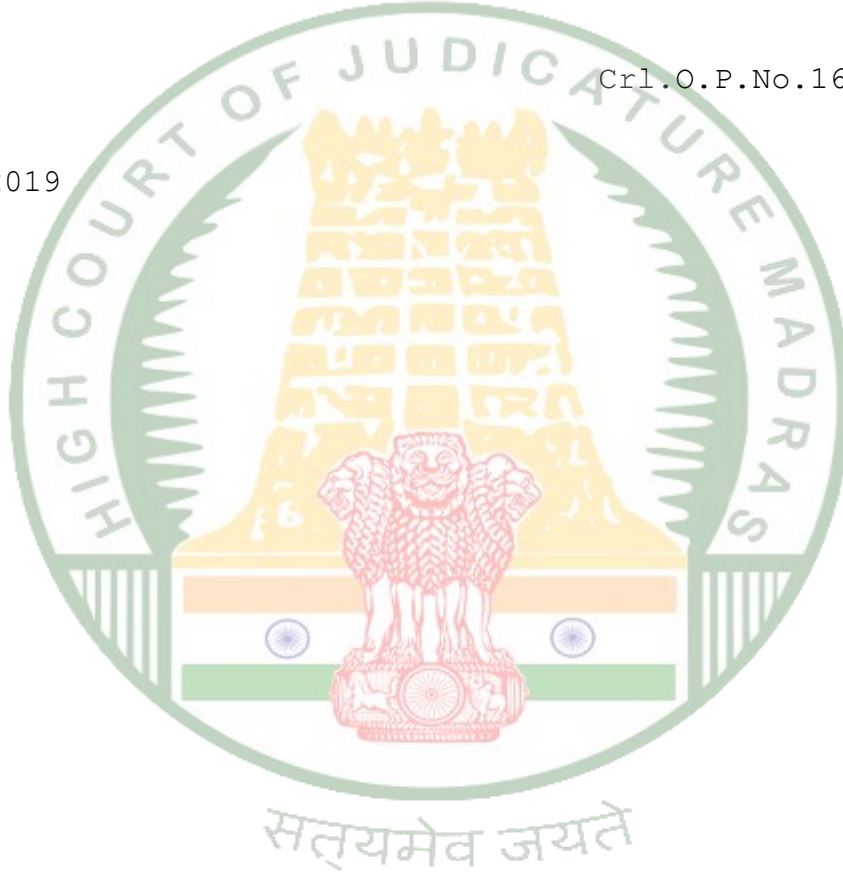
To

1. The Judicial Magistrate,
Thirukovilur.
2. Do Thro' The Chief Judicial Magistrate,
Villupuram.
3. The Public Prosecutor,
High Court, Chennai.

+lcc to Mr.R.Saravanan, Advocate in sr.no.38631 (24.07.2019)

Cr1.O.P.No.16735 of 2017

SKV(CO)
CS/13/06/2019



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