



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2019

CORAM:

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THE HONOURABLE MR. JUSTICE. N. SESHASAYEE

CRL.O.P.[MD].Nos. 2743 of 2019 & 11515 of 2018
and CRL. M.P. [MD] Nos. 1520 & 1521 of 2019
and CRL. M.P. [MD] Nos. /5227 & 5228 of 2018

CRL.O.P. [MD].No.2743 of 2019

1. Selvadurai
2. Dharmapandiyan
3. Ernest Paul Stephen
4. Alexander Shepard
5. John Rajkumar
6. Asariya Melvin Samuel
7. Raja Samuel
8. Arun Mathew
9. Benjamin Anburaj
10. Stephen David Raja
11. Emimal Gnanaselvi
12. Angel Thavaselvi
13. Sridevi
14. Adlin
15. Revin

: Petitioners/Accused

Vs.

- 1.The State represented
by the Inspector of Police,
Karimedu Police Station,
Madurai.

: 1st Respondent/Complainant

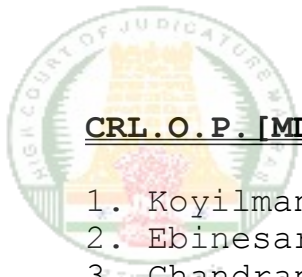
2. Koyilmani

: 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the entire records connected with the case in C.C. No.97 of 2018, pending before the learned Judicial Magistrate-V, Madurai and quash the same.

For Petitioner : Mr. J.Sathiaraj

For Respondent-1 : Mr. A.P.G. Ohm Chairma Prabhu
Government Advocate (Criminal Side)

**CRL.O.P.[MD].No. 11515 of 2018**

1. Koyilmani
2. Ebinesar Rajkumar
3. Chandran
4. Rajesh
5. Agastin
6. Senthil Kumar
7. Johnson Gnanamuthu
8. Manoharan
9. Justin Selvaraj
10. Henri Joens
11. Kithiyon Ebinezar @ Ebi Kithiyon
12. Flarance Ebinezar
13. Sujatha Senthil @ Sutha Senthil : Petitioners/Accused-1 to 13

Vs.

1.The Inspector of Police,
Karimedu Police Station,
Madurai City,
Madurai District. : Respondent/ Complainant

2. Asariyamelvini Samuel : Respondent/ Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records and to quash the proceedings in C.C. No.98 of 2018, on the file of the Judicial Magistrate-V, Madurai.

For Petitioners : Mr. M. Rajaraman

For Respondent-1 : Mr. A.P.G. Ohm Chairma Prabhu
Government Advocate (Criminal Side)

For Respondent-2 : Mr.T.Ebenezer

COMMON ORDER

These Criminal Original Petitions have been filed by the petitioners, to call for the entire records connected with the case in C.C. Nos.97 & 98 of 2018, pending before the learned Judicial Magistrate-V, Madurai and quash the same.

2.1 Both the cases are registered as case and counter. The petitioners in CRL.OP(MD) No. 2743 of 2019 were arrayed as accused persons in Crime No.849 of 2017 wherein they face accusation of commission committed of offences punishable under Section 147, 148, 294(b), 324 and 506(ii) of the I.P.C. In this case, the investigation has been completed and the charge sheet was laid and



the same is pending in C.C. No.97 of 2018, before the learned Judicial Magistrate-V, Madurai.

2.2. The other case has been filed by the accused in the aforesaid case and that was registered in Crime No.850 of 2017 for the offences punishable under Section 147, 294(b), 323 and 506(i) of the I.P.C., even, in this case, investigation has been completed and charge sheet was laid and the same is pending in C.C. No.98 of 2018, before the learned Judicial Magistrate-V, Madurai.

2.3. The occurrence relates to the occupation of the accused party in Crime No.850 of 2017 in the quarters meant for the Pastors which the accused persons in Crime No.849 of 2017 had questioned the same.

3. Heard both sides as regards the respective cases.

4. On a perusal of the final report, this Court finds that, so far as the case arising out of Crime No.849 of 2017 (C.C. No.97 of 2018) specific overt act has been assigned to all the accused persons as per the statement of the witnesses. The learned counsel for the petitioners submitted that there are some discrepancies in their statements. But this aspect has to be decided only during trial, and that may not be a ground to set aside the charge sheet.

5. Insofar as the other case in Crime No.850 of 2018 (C.C. No.98 of 2018) is concerned, the specific overt act has been indicated in the statement of the witnesses as regards the some of the accused persons. The learned counsel for the petitioners submitted that atleast as regards those who have been left out in the statement of the witnesses, the Court must consider quashing the final report.

6. The learned Government Advocate (Criminal Side) would now intercept to submit that so far as the case pending in C.C.No.98 of 2018 is concerned, since it is registered under Section 147 of the I.P.C., necessarily all those who constituted an unlawful assembly have to be roped in, even though some of them may not have actually participated in the commission of offence.

7.1 Ultimately, this is also an aspect that has to be decided only during trial, and not at this point of time for this Court to consider setting aside the final report by this Court.

7.2 In conclusion, this Court finds no reason to quash the final reports laid in both Crime Nos. 849 & 850 of 2017 and necessarily both the petitions have to be dismissed.

8. In the result, the Criminal Original Petitions are dismissed. Consequently, connected Miscellaneous Petitions are closed. Dispensed with for the presence of the petitioners-3, 7, 8,



10, 12 and 13 in CRL. O.P.(MD) No.11515 of 2018 and the petitioners-
1 to 5 and 11 to 14 in CRL. O.P.(MD) No.2743 of 2019.

Sd/-

Assistant Registrar (AD-II)

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Sub Assistant Registrar

To

1. The Judicial Magistrate No.5, Madurai.

2. The Inspector of Police,
Karimedu Police Station,
Madurai.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.J.SATHIARAJ, Advocate (SR-52633[F] dated 08/03/2019)
+1CC TO Mr.M.RAJARAMAN, Advocate, Sr No.52816
+1CC TO MR.T.A.EBENEZER, Advocate, Sr No.52726

Common Order made in
CRL.O.P.[MD].Nos.2743 / 2019
& 11515 of 2018
07.03.2019

ksa

MS/12.09.2019/4P.7C