



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2019

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.O.P.(MD)No.5186 of 2019

and

Crl.M.P.(MD)Nos.3266 & 3267 of 2019

1.M.K.Haroon Rashid, S/o.M.K.Kadhar Hussain

2.Mohamed John, S/o.M.K.Kadhar Hussain ... Petitioners

Vs.

1.The Inspector of Police (Law and Order),
Thideer Nagar Police Station,
Madurai.
(Crime No.480 of 2018)

2.K.S.Mohammed Yasin ... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the charge sheet in C.C.No.76 of 2019, on the file of the Judicial Magistrate Court No.V, Madurai, and quash the same.

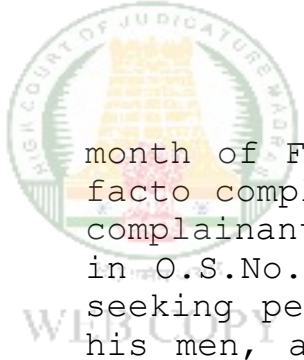
For Petitioners : Mr.T.Lajapathi Roy

For R1 : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Criminal side)

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.76 of 2019, on the file of the Judicial Magistrate Court No.V, Madurai.

2.The case of the prosecution is that the petitioners/A1 and A2 were running Biriyan Shops at No.3 Town Hall Road, for the past 30 years. Since the first petitioner/A1 is a religious oriented man, he closed the said shop, twice in a year for the purpose of religious Propaganda. At that time, the de-facto complainant requested the first petitioner/A1 to hand over the shop. The first petitioner/A1 after collecting a sum of Rs.4,10,000/- from the de-facto complainant, handed over the said shop to him in the month of December 2017. Thereafter, in the



month of February 2018, the first petitioner/A1 requested the de-facto complainant to hand over the said shop to him. The de-facto complainant refused to hand over the shop and filed a civil suit in O.S.No.294 of 2018 before the District Munsif Court, Madurai, seeking permanent injunction restraining the first petitioner/A1, his men, agents, servants or anyone else claiming under him from in any way interfering with the peaceful possession and enjoyment of the de-facto complainant over the suit property. The first petitioner has also filed a civil suit in O.S.No.374 of 2018 before the District Munsif Court, Madurai, seeking permanent injunction restraining the second respondent/de-facto complainant and his mother, their men and agents not to disturb the peaceful possession and enjoyment of the suit mentioned property. When the said suits are pending, on 08.08.2018 at 11.00 p.m., the petitioners damaged the Wall of the shop and entered into the said Shop and in order to prevent the second respondent/de-facto complainant, they welded the door of the shop from inside. When the second respondent/de-facto complainant questioned about the same, the petitioners abused him in filthy language and gave a life threat to him. Hence, the second respondent/de-facto complainant lodged a complaint before the first respondent police. After conducting investigation, the Law Enforcing Agency filed a charge sheet in C.C.No.76 of 2019 before the Judicial Magistrate Court No.V, Madurai.

3.Though the learned counsel for the petitioners raised several grounds for quashing the charge sheet filed by the 1st respondent Law Enforcing Agency, he submitted that it would suffice, if a direction is issued to the trial Court to complete the trial within a time limit that may be stipulated by this Court and the personal appearance of the petitioners may be dispensed with.

4.Heard the learned Government Advocate (Criminal side) appearing for the first respondent.

5.Accepting the above said submission made by the learned counsel appearing for the petitioners, without going into the merits of the case, this Court directs the Trial Court to complete the trial in C.C.No.76 of 2019, within a period of six months from the date of receipt of a copy of this order. The petitioners shall present before the Trial Court for answering charges, for questioning under Section 313 Cr.P.C. and on the date of judgment. For other hearings, if the petitioners file an affidavit under Section 317 Cr.P.C., the same shall be liberally considered. If the accused adopt dilatory tactics, the Trial Court shall insist upon the presence of the accused. If the accused abscond, a fresh FIR shall be registered against them under Section 229-A IPC.

6.With the above direction, this Criminal Original Petition is



disposed of. Consequently, connected Miscellaneous Petitions are closed.

WEB COPY

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar (CS)

To

1.The Judicial Magistrate No.V,
Madurai.

2.The Inspector of Police (Law and Order),
Thideer Nagar Police Station,
Madurai.

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

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-59825[F] dated
09/04/2019)

SMN2

Cr1.O.P.(MD)No.5186 of 2019
08.04.2019

KM/(16.04.2019) 3P 5C