



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:30.10.2019
CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

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Crl.O.P.(MD) No.4414 of 2019
and
Crl.M.P(MD) Nos.2679 and 2680 of 2019

V.Kannan

... Petitioner/1st Accused

Vs.

1.The Deputy Superintendent of police,
District Crime Branch,
Madurai District.
(In C.C.No.127 of 2016)

2.The Inspector of Police,
Y.Othakkadai Police Station,
Y.Othakkadai,
Madurai.

(In Crime No.555 of 2012) : Respondent/Complainant

3.K.Rajendran : Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to Call for the records of the impugned charge sheet in C.C.No.127 of 2016, on the file of the learned Judicial Magistrate Court, Melur, Madurai District, and quash the same.

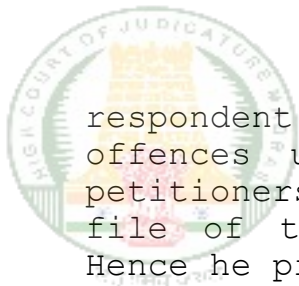
For Petitioner : Mr.V.Kannan
Party-in-person

For Respondents : Mr.A.Natarajan, State PP,
1 & 2 Assisted by
Mr.R.Anandharaj
Additional Public Prosecutor

O R D E R

This petition has been filed to quash the proceedings in C.C.No.127 of 2016 on the file of the Judicial Magistrate Court, Melur, Madurai District, as against this petitioner.

2.The learned Counsel appearing for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. Without any base, the second



respondent police registered a case in Crime No.555 of 2012 for the offences under Sections 406 and 420 of IPC , as against the petitioners and taken cognizance for in C.C.No.127 of 2016 on the file of the Judicial Magistrate Court, Melur, Madurai District. Hence he prayed to quash the same.

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3.The learned Additional Public Prosecutor would submit that some of the witnesses have been examined in this case.

4.Heard Mr.V.Kannan, Party in person and Mr.R.Anandharaj, learned Additional Public Prosecutor appearing for the respondents 1 and 2.

5.It is seen from the First Information Report that there is a specific allegation as against the petitioner, which has to be investigated. Further the FIR is not an encyclopedia and it need not contain all facts. Further, it cannot be quashed in the threshold. This Court finds that the FIR discloses prima facie commission of cognizable offence and as such this Court cannot interfere with the investigation. The investigating machinery has to step in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code. It is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in **Crl.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.

6. Recently, the Hon'ble Supreme Court of India held in respect of the very same issue in Crl.A.No.1572 of 2019 - Central Bureau of Investigation Vs. Arvind Khanna, wherein, it has been held as follows:



"19.After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20.In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for."

The above judgment is squarely application to this case and as such, the points raised by the petitioners cannot be considered by this Court under Section 482 Cr.P.C.

7.In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.127 of 2016 on the file of the learned Judicial Magistrate Court, Melur, Madurai District. Hence this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petitions are closed .However, the trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of this Order.

8. Further, the personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. The petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

vsg



To

1. The Judicial Magistrate Court,
Melur, Madurai District.
2. The Deputy Superintendent of police,
District Crime Branch,
Madurai District.
3. The Inspector of Police,
Y.Othakkadai Police Station,
Y.Othakkadai, Madurai.
4. The Additional Public Prosecutor
Madurai Bench of Madras High Court.

+2 CC to M/s.V.KANNAN, Party-in-person SR-95238.

Crl.O.P. (MD) No.4414 of 2019
and
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CS(19.11.2019) 4P 7C