



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:30.10.2019

CORAM:

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

Crl.O.P.(MD) No.4613 of 2019

and

Crl.M.P(MD) Nos.2825 and 2826 of 2019

WEB COPY

1.Shanmugam

2.Amsavalli

: Petitioners/Accused 1 & 2

Vs.

1.The State rep. by,
The Inspector of Police,
City Crime Branch,
Trichy District.
(Crime No.14 of 2014).

: Respondent/Complainant

2.Silvia

: Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to Call for the records in connection with C.C.No.786 of 2018 on the file of the learned Judicial Magistrate No.2, Trichy, Trichy District and quash the same.

For Petitioners : Mr.B.Jeyakumar

For 1st Respondent : Mr.K.Suyambulinga Bharathi

Government Advocate (Crl. Side)

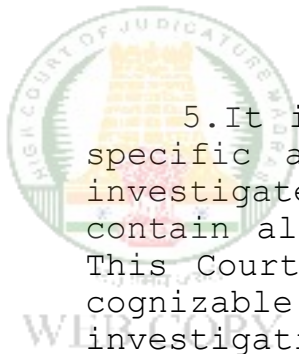
O R D E R

This petition has been filed to quash the proceedings in C.C.No.786 of 2018 on the file of the Judicial Magistrate No.2, Trichy, Trichy District, as against this petitioners.

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.14 of 2014 for the offences under Sections 120(b), 420 and 506(i) of IPC, as against the petitioners and taken cognizance for in C.C.No.786 of 2018 on the file of the Judicial Magistrate No.2, Trichy, Trichy District. Hence he prayed to quash the same.

3.The learned Government Advocate (Crl. Side) would submit that some of the witnesses have been examined in this case.

4.Heard Mr.B.Jeyakumar, Party in person and Mr.K.Suyambulinga Bharathi, learned Government Advocate (Crl. side) appearing for the first respondent.



5.It is seen from the First Information Report that there is a specific allegation as against the petitioners, 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.786 of 2018 on the file of the learned Judicial Magistrate No.2, Trichy, Trichy District. Hence this Criminal Original Petition stands dismissed with liberty to the petitioners to raise all the points before the trial Court. 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.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

vsg

To

1. The Judicial Magistrate No.2,
Trichy, Trichy District.
2. The Inspector of Police,
City Crime Branch, Trichy District.
3. The Additional Public Prosecutor
Madurai Bench of Madras High Court.

+1 CC to M/s.B.JEYA KUMAR, Advocate SR-95259.

+1 CC to M/s.S.VINOD SATHYA, Advocate SR-95598.

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