



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.10.2019**

CORAM

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

CRL.O.P(MD)No.6289 of 2019

and

CrI.M.P(MD)No.4160 of 2019

Sellamani

... Petitioner / Accused No.2

Vs.

A.Pandiselvi

...Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertaining to the private complaint in S.T.C.No.22 of 2019 on the file of the Judicial Magistrate, Paramakudi and quash the same as illegal.

For Petitioner : Mr.D.Senthil
For Respondent : Mr.T.Senthil

O R D E R

This petition has been filed to quash the proceedings in S.T.C.No.22 of 2019 on the file of the Judicial Magistrate, Paramakudi, as against the petitioner.

2. Heard both sides.

3. A careful perusal of entire materials available on record, the final report discloses a *prima facie* offence against the petitioner and there is no reason to interfere with the same. 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

<https://hcservices.ecourts.gov.in/hcservices/> 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.

4. Hence, this Criminal Original Petition is dismissed. However, the learned Judicial Magistrate, Paramakudi, is directed to proceed with the trial and complete the same within a period of six months from the date of receipt of a copy of this order.

5. At this juncture, the learned Counsel for the petitioner submitted that the presence of the petitioner before the Trial Court may be dispensed with.

6. Accepting the said submission, 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.

7. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar (CS)

vsd

To

1. The Judicial Magistrate, Paramakudi.

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

+1 CC to M/s.K.RAJESHWARAN, Advocate (SR-92449[F] dated 17/10/2019)

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