



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.3118 of 2018

and

Cr1.M.P. (MD) No. 1439 of 2018

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Ganga @ Gangadevi ... Petitioner/Sole accused

Vs

K.Muruga Pandi ... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to quash the private complaint in C.C. No.74 of 2015 on the file of the learned Judicial Magistrate, Melur.

For Petitioner : Mr.R. Velmurugan

For Respondent : Mr.K. Muthu Ganesa Pandian

O R D E R

This petition has been filed to quash the proceedings in C.C. No.74 of 2015 on the file of the learned Judicial Magistrate, Melur as against the petitioner.

2. The learned counsel appearing for the petitioner would submit that the petitioner is innocent person and he has been falsely implicated in the case with oblique motive. There respondent herein without any concrete materials and documents filed a vexatious petition as against the peititioner before the learned Judicial Magistrate, Melur and hence, under Sections 406 & 420 of I.P.C., as against the petitioner.

3. The learned Government Advocate (criminal side) submitted that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charges framed against the petitioner have to be gone into a full-fledged trial. Further, he would submit that the trial has also been commenced and hence, he prayed for dismissal of the petition.

4. Heard both sides and perused the materials available on records.

5. It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in **Cr1.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



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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. In view of the above citation, the criminal proceedings as against the petitioner cannot be quashed at its threshold and it has to be gone in to by full fledged trial. Further, in this case, trial has also been commenced. Therefore, the charges cannot be quashed at this stage and this criminal original petition is liable to be dismissed.

7. Accordingly, this criminal original petition is dismissed with the liberty to the petitioner to raise all the grounds before the trial Court. Consequently, connected miscellaneous petition is also dismissed. However, the learned Judicial Magistrate, Melur is directed to complete the trial and dispose of the case, within a period of six months from the date of receipt of a copy of this order. The personal appearance of the petitioner before the trial Court is dispensed with, except the dates on which, the trial Judge insisted the petitioner for his appearance.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

Ksa

To

The Judicial Magistrate, Melur.

+1 CC to M/s.R.VELMURUGAN, Advocate (SR-95024[F] dated 31/10/2019)

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