



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2019

CORAM:

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

Crl.O.P. (MD) .No.3695 of 2018

and

Crl.M.P. (MD) No.1781 of 2018

WEB COPY

Sathiya Dhas

: Petitioner/1st Respondent

Vs.

1. Blessy
2. S.B. Esayas (Minor)
(Minor 2nd respondent represented by
his mother 1st respondent herein)
: Respondents 1 & 2/Petitioners 1 & 2
3. Roseli Charlet
4. Richard Kingsley Kumar
5. Marry Thangalet
6. Marry Mahathalanal : Respondents 3 to 6 /Respondents 2 to 5

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to D.V.C. No. 1 of 2017 on the file of Judicial Magistrate Court, Padmanabhapuram and quash the same as illegal.

For Petitioner : Mr.V.M.Balamohan Thampi

For R1 : Mr.S.Saji Bino

O R D E R

This petition has been filed to quash the proceedings in D.V.C.No.1 of 2017 on the file of learned Judicial Magistrate, Padmanabhapuram

2.Heard both sides.

3.A careful perusal of entire materials available on record, the proceeding in D.V.C.No.1 of 2017 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.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 applied to this case and as such, the points raised by the petitioner cannot be considered by this Court under Section 482 Cr.P.C.

4. In view of the above discussions, this Criminal Original Petition is dismissed. It is seen that the proceedings in D.V.C.No.1 of 2017 on the file of learned Judicial Magistrate, Padmanabhapuram, is pending from the year 2017. Therefore, the learned Judicial Magistrate, Padmanabhapuram, is directed to complete the proceedings, within a period of six months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

LS

To

The Judicial Magistrate, Padmanabhapuram.

+1 CC to M/s.S.SAJI BINO, Advocate SR-96869.

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