



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2019

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.(MD)No. 12412 of 2019

and

Crl.M.P.(MD) Nos. 7774 & 7775 of 2019

... Petitioner/Accused No.4

Vs

1.State Through

The Inspector of Police,
Boothapandy Police Station,
In Crime No.52 of 2015,
Kanyakumari District.

...1st Respondent/ Complainant

2.Thomas Sarkaria

...2nd Respondent

[2nd respondent amended vide order dated 18.10.2019
in Crl.M.P.(MD)No.8959 of 2019]

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to the charge sheet in C.C.No.135 of 2016, on the file of the learned Judicial Magistrate, Boothapandy, quash the same insofar as the petitioner's concern.

For Petitioner: Mr.M.Subash Babu

For R-1 : Mrs.S.Bharathi

Government Advocate (Crl. Side)

For R-2 : Mr.T.Lajapathi Roy

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.135 of 2016, on the file of the learned Judicial Magistrate, Boothapandy.

2.The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent person and she has not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.52 of 2015 for the offences under Sections 147, 148, 324, 323 and 506 (ii) of IPC, as against the petitioner and the same has been taken cognizance in C.C. No. 135 of 2016, on the file of the learned Judicial Magistrate, Boothapandy. Hence he prayed to quash the same.

3. The learned Government Advocate (Crl. Side) would submit 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 against the petitioner has to be gone into a full-fledged trial and hence, she prayed for dismissal of the petition.

4.This Court is of the view that all the grounds can be raised before the trial Court and there is no merit in the quash petition.

5.At this juncture, the learned counsel appearing for the petitioner prayed that the personal appearance of the petitioner before the trial Court, may be dispensed with. He would also seeks



that the time frame may be fixed to the trial Court to complete the trial.

6. Accepting the said submission, the presence of the petitioner before the trial Court shall be dispensed with on condition that the petitioner shall be present on the first day of appearance, on the date fixed for receiving the copies, initial questioning, reply to charges and questioning under Section 313 of Cr.P.C., and at the time of passing judgment and whenever insisted upon by the trial court.

7. The petitioner further directed to give an undertaking in the form of affidavit that she will be duly represented by a counsel on all hearing dates and that the Counsel representing her will cross examine the prosecution witnesses on the same day they are examined in chief. The petitioner shall not dispute the identity of the witnesses. The petitioner shall appear before the Court in the event her presence is insisted by the trial judge for the purpose of identification. If the petitioner adopts any dilatorial tactics, it is open to the Trial Court to insist for her appearance and deal with the petitioner in accordance with the judgment of Supreme Court of India, **in State of Uttar Pradesh Vs. Shambunath Singh**, reported in **2001 (4) SCC 667**.

8. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petitions are closed. Since the Calendar Case is of the year 2016, the learned Judicial Magistrate, Boothapandy, shall take every endeavour to complete the trial as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

Sub Assistant Registrar(CS)

sjj

To

1. The Judicial Magistrate, Boothapandy.
2. The Inspector of Police, Boothapandy Police Station,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.M.SUBASH BABU, Advocate (SR-104437[F] dated 11/12/2019
+1 CC to M/s.T.LAJAPATHIROY, Advocate (SR-104456[F] dated 11/12/2019

Crl.O.P. (MD) No.12412 of 2019

10.12.2019

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