



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.09.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.12359 of 2014

and

M.P.(MD)No.1 of 2014

WEB COPY

M.Mathialagan ... Petitioner/Accused No.5

Vs.

1.The State represented by
The Inspector of Police,
Kulasekaram Circle,
Kanyakumari District.
(Crime No.247 of 2010)

...1st Respondent/Complainant

2.A.Selvam ...2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in connection with the impugned charge sheet in P.R.C.No.35 of 2012, pending on the file of the learned Judicial Magistrate, Padmanabhapuram, Kanyakumari District and quash the same insofar as the petitioner is concerned.

For Petitioner	: Mr.G.Thalaimutharasu
For Respondents	: Mr.A.Robinson
	Govt. Advocate (Crl.Side) for R1
	: No appearance for R2

O R D E R

The petitioner is facing trial in P.R.C.No.35 of 2012, on the file of the learned Judicial Magistrate, Padmanabhapuram, Kanyakumari District. He has been shown as A5.

2.In the year 2010, a Kabadi tournament was conducted at Marungoor Village on the eve of Pongal. Certain dispute arose with regard prize distribution. The team lead by Jebasteen @ Easan had won the tournament while the team lead by the petitioner's brother-in-law had lost. The petitioner was originally scheduled to distribute the prizes. The petitioner was not willing to give the prize to the team of Jabasteen and the team was also not willing to receive the prize from the petitioner. This is said to be the motive for the occurrence. In the process, the second respondent herein was also attacked. The occurrence had taken place on 04.10.2010 at about 02.15 p.m. The second respondent lodged a complaint before Kulasekaram Circle, Kanyakumari District, leading to registration of Crime No.247 of 2010, for the offence under Sections 147, 148, 307, 109, 120(b) r/w 149 of I.P.C. @ 120(b), 147, 148, 307, 333 r/w 149 and 109 of I.P.C. Under a false alteration report was filed. The final report was



filed before the learned Judicial Magistrate, Padmanabhapuram, Kanyakumari District. Cognizance of the offences was also taken and since the case is triable by the Sessions Court, the committal proceedings were being conducted. At this stage, this criminal original petition came to filed.

WEB COPY

3.The only allegation against the petitioner is one of conspiracy. The petitioner is a practicing lawyer. The defacto complainant is no more. This Court wanted to know, the materials based on which the final report came to filed against the petitioner herein. The learned Government Advocate (Crl. Side) drew my attention to Section 161 statement of Jebasteen @ Easen and the statement of the defacto complainant and the statement of one Jegan. In all these statements, there is a reference to the petitioner herein. But then, they do not even on the face of it establish the culpability of the petitioner herein. Even if the allegations are taken to be true, the petitioner cannot be found guilty of the charge of conspiracy. It is a case of zero evidence against the petitioner herein. Therefore, the chances of convicting the petitioner on the strength of this material is virtually zero. Continuance of the impugned prosecution will only amount to abuse of legal process. The impugned prosecution is quashed insofar as the petitioner is concerned. The criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

ias

To:

1.The Judicial Magistrate,
Additional Mahila Court,
Madurai.

2.The Sub-Inspector of Police,
All Women Police Station (South),
Maduri City,
Madurai.

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-86611[F] dated 13/09/2019)

Crl.O.P. (MD)No.12359 of 2014
10.09.2019

KM/(04.10.2019) 2P 4C