



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.7030 of 2018

and

CrI.M.P.(MD) Nos. 3331 & 3332 of 2018

Moorthy ... Petitioner/Accused No.1

Vs

1. State rep. by
The Inspector of Police,
Lalapet Police Station, Karur District.
(Crime No. 320 of 2017) ...Respondent/Complainant

2. Vijayakumar ... Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertaining to C.C. No.23 of 2018 on the file of the learned Judicial Magistrate No.I, Kulithalai in Crime No.320 of 2017 on the file of the first respondent police.

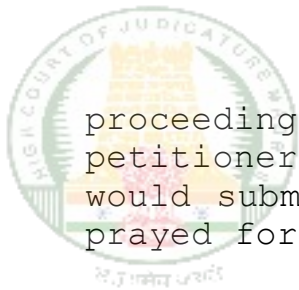
For Petitioner	: Mr.D. Saravanan
For Respondent-1	: Mr.K.Suyambulinga bharathi, G.A. (Crl. Side)
For Respondent-2	: No Appearance

O R D E R

This petition has been filed to quash the proceedings in C.C. No.23 of 2018 on the file of the learned Judicial Magistrate No.I, Kulithalai 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. As on face of the complaint which shows that it has been drafted with imaginary facts which cannot be made out any such case as stated in the complaint. The allegations made in the charge sheet as well as the Statements of the witnesses do not at all attract the offences under Sections 294(b), 324 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 **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 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 against the petitioner cannot be quashed at its threshold and it has to be gone into 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 petitions are also dismissed. However, the learned Judicial Magistrate No.I, Kulithalai 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 their appearance.

WEB COPY

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

Sub Assistant Registrar (CS)

Ksa

To

1. The Judicial Magistrate No.I, Kulithalai
2. The Inspector of Police,
Lalapet Polie Station, Karur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.D. SARAIVANAN, Advocate (SR-95626[F] dated
01/11/2019)

Order made in
CRL.O.P (MD) No.7030 of 2018
30.10.2019

_KM/ (27.11.2019) 3P 5C