



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl OP(MD)Nos.4976 of 2015 & 8980 of 2018

and

MP(MD)Nos.1 & 2 of 2015 in Crl OP(MD)No.4976 of 2015

& Crl MP(MD)Nos.3929 & 3930 of 2018

1.Sahaya Reema

2.Motcha Rani

... Petitioners in Crl OP(MD)No.4976 of 2015/
Accused Nos.2 & 4

3.Praveen

... Petitioner in Crl OP(MD)No.8980 of 2018/
Accused No.3

Vs.

Annamani

... Respondent / Defacto Complainant
in both cases

Common Prayer : Criminal Original Petitions are filed under Section 482 of Criminal Procedure Code, to quash the complaint filed by the respondent in C.C No.209 of 2014 pending on the file of the Judicial Magistrate No.3, Nagercoil with regard to the petitioners.

For Petitioners
in both cases

: Mr.R.Murugan

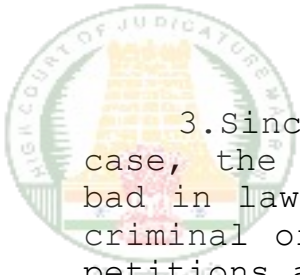
For Respondent
in both cases

: Mr.R.Jeyaraj

COMMON ORDER

The petitioners are facing trial in C.C No.209 of 2014 on the file of the Judicial Magistrate No.3, Nagercoil for the offences under Sections 452, 294(b), 323 and 506(ii) IPC. The respondent herein is the complainant.

2.The only ground urged by the petitioner's counsel is that even without examining the complainant on oath, the learned Trial Magistrate had taken cognizance of the complaint. This is a factual aspect that cannot be controverted. The learned counsel for the petitioner has placed materials in the typed set of papers which clearly indicate that the complainant was not examined on oath. Section 200 of Cr.PC casts a mandate that a magistrate taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present. This requirement can be dispensed with if the complainant is a public servant acting or purporting to act in the discharge of his official duties or a Court has made the complaint and if the magistrate makes over the case for inquiry or trial to another Magistrate under Section 192. In all other cases, the duty to examine the complainant on oath cannot be done away with.



3. Since this requirement has not been complied with in this case, the order taking cognizance of the complaint in question is bad in law. Hence, the impugned proceedings stand quashed. These criminal original petitions stand allowed. Connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

20.11.2019

Skm

To

The Judicial Magistrate No.3,
Nagercoil.

+1 CC to M/s.R.MURUGAN, Advocate (SR-100009[F] dated 21/11/2019)

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SMA/27/12/19/2P/3C