



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:06.11.2019
CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD) No.16026 of 2019

and

Crl.M.P(MD) Nos.9525 and 9527 of 2019

Vinoth ... Petitioner/Respondent No.1
Vs.
V.Krithiga ... Respondent/Petitioner

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to Call for the records pertaining to D.V.C.No.27 of 2019 on the file of the Additional Mahila Court, Trichy and quash the same

For Petitioner : Mr.V.Illanchezian

O R D E R

This petition has been filed to quash the proceedings in D.V.C.No.27 of 2019 on the file of the Additional Mahila Court, Trichy , as against this petitioner.

2. The learned Counsel appearing for the petitioner would submit that there is no specific allegation against the petitioner. But without verifying the allegations found in the petitioner, the Additional Mahila Court, Trichy had issued summons dated 22.02.2019 to the petitioner and his parents and directed them to appear before the Court on 01.03.2019 and after receiving the same, the petitioner appeared in person and also contested the case. Hence he has filed the present petition to quash the proceedings.

3. Heard Mr.V.Illanchezian learned counsel appearing for the petitioner.

4. It is also 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.

5. Recently, the Hon'ble Supreme Court of India held in respect of the very same issue 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 application to this case and as such, the points raised by the petitioner cannot be considered by this Court under Section 482 Cr.P.C.

6. Considering the fact that there are serious allegations against the petitioner, which has to be tried before trial Court, this Court is not inclined to quash the proceedings in D.V.C.No.27 of 2019 on the file of the Additional Mahila Court, Trichy. Hence this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed. Further the trial petitioner is at liberty to raise all the grounds before the trial Court. The trial Court is directed to complete the trial



within a period of six months from the date of receipt of copy of this Order.

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Sd/-

Assistant Registrar (CS-II)

Sub Assistant Registrar(CS)

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To

The Judge,
The Additional Mahila Court, Trichy

+1 CC to Mr.V.ILLANCHEZIAN, Advocate (SR-96736[F] dated
07/11/2019)

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and

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