



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD)No.7234 of 2018

and

Crl.MP(MD)No.3448 of 2018

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S.Kathiresan @ Kathiresan Pusari,
S/o.Seenisamy Pusari,
Hereditary Trustee,
Arulmigu Mariamman Thirukovil,
Erukkankudi, Sattur Taluk,
Virudhunagar District.

... Petitioner/Witness/Nil
-Vs-

1.The Director General of Police,
Chennai.

2.The Commissioner,
Tamil Nadu Hindu Religious and Charitable Endowment,
119, Uthamar Gandhi Road,
Nungapakkam, Chennai-600 034.

3.The Superintendent of Police,
Virudhunagar District, Virudhunagar.

4.The Assistant Commissioner/Executive Officer,
Arulmigu Errukkankudi Mariamman Thirukovil,
Errukkankudi, Sattur Taluk,
Virudhunagar District.

5.The Deputy Superintendent of Police,
Sattur Division, Sattur.

6.The Inspector of Police,
Errukkankudi Police Station,
Sattur Taluk,
Virudhunagar District.

... Respondents/Respondents

7.Ramamoorthy

8.Ramesh

9.Suliyar

10.John Pandian

... Respondents/Respondents/
Accused Nos.1 to 4

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to set aside the final report in C.C.No.195 of 2017 on the file of the learned Judicial Magistrate Court, Sattur



and further direct the third respondent to direct the fifth respondent to re-investigate the case in Crime No.153 of 2016 on the file of the sixth respondent, now charge sheeted in C.C.No.195 of 2017 on the file of the learned Judicial Magistrate Court, Sattur.

For Petitioner : Mr.T.S.Mohamed Mohideen

For R1 to R6 : Mr.K.Suyambulinga Bharathi

Government Advocate (Crl.Side)

For R7 : Mr.N.Dilipkumar

For R8 : No Appearance

For R9 : Mr.C.Mayilvahana Rajendran

For R10 : Mr.C.M.Arumugam

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.195 of 2017 on the file of the learned Judicial Magistrate Court, Sattur and further direct the third respondent to direct the fifth respondent to re-investigate the case in Crime No.153 of 2016 on the file of the sixth respondent, now charge sheeted in C.C.No.195 of 2017 on the file of the learned Judicial Magistrate Court, Sattur.

2. The learned counsel for the petitioner would submit that on the complaint lodged by one Mr.Hariharan, Hindu Religious and Charitable Endowment Department, the sixth respondent registered a case in Crime No.153 of 2016 and thereafter, completed the investigation and filed a final report and the same has been taken cognizance in C.C.No.195 of 2017 on the file of the learned Judicial Magistrate Court, Sattur for the offences under Sections 457 and 380 of IPC, as against the four accused persons.

3. He also further submitted that the Investigating Officer has fixed the value of the missing hairs as Rs.1,55,000/- instead of Rs.45,64,000/-. Therefore, it would affect the entire trial. Since the value of the hair fixed by the Investigating Officer is very low and that it would be made huge loss to the temple. Therefore, he prayed to quash the proceedings in C.C.No.195 of 2017 on the file of the learned Judicial Magistrate Court, Sattur.

4. Per contra, the learned Additional Public Prosecutor appearing for the respondents 1 to 6 would submit that on the complaint lodged by the Hindu Religious and Charitable Endowment Department, a case has been registered in Crime No.153 of 2016 for the offences under Sections 457 and 380 of IPC. Initially, the case has been registered for the offences under Sections 457 and 380 of IPC. After completion of investigation, the respondent police filed a final report for the offences under Sections 120 (B), 457 and 380 of IPC. The charge sheet has been taken cognizance in C.C.No.195 of 2017 and it is pending for trial on the file of the learned Judicial Magistrate-II, Sattur. At this stage, the petitioner is being one of the witness, re-investigation cannot be done at the request of the petitioner. Therefore, he prayed for dismissal of this petition.



5. Heard, the learned counsel appearing for the petitioner, learned Government Advocate (Crl.Side) appearing for the respondents 1 to 6, learned counsel appearing for the seventh respondent, learned counsel appearing for the ninth respondent and learned counsel appearing for the tenth respondent.

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6. It is seen that on the complaint lodged by the Hindu Religious and Charitable Endowment Department before the sixth respondent police, a case been registered in Crime No.153 of 2016 for the offences under Sections 380 and 457 of IPC. After completing the investigation the sixth respondent filed a final report for the offences under Section 120 (B), 380 and 457 of IPC. In respect of quantum of hair disputed by the petitioner. The petitioner is being one of the witness, he can very well depose about the quantum of the hair stolen by the accused persons. He also had liberty to mark documents to show that the value of the missing hair to the tune of Rs.45,65,000/- instead of Rs.1,55,000/-. Therefore, re-investigation cannot be ordered at this stage.

7. However, the petitioner is at liberty to depose before the Trial Court and also produce sufficient materials to prove the worth of missing hair to the tune of Rs.45,65,000/-.

8. With the above direction, this petition is disposed of. Considering the trial is of the year 2017, the Trial Court is directed to complete the trial within in a period of six months from the date of receipt of a copy of the order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

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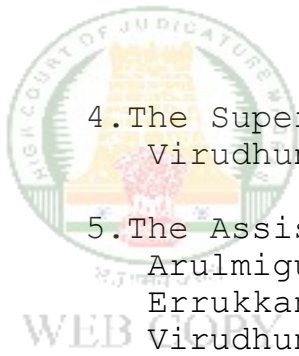
Sub Assistant Registrar(CS)

dss
To

1.The Judicial Magistrate Court,
Sattur.

2.The Director General of Police,
Chennai.

3.The Commissioner,
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119, Uthamar Gandhi Road,
Nungapakkam, Chennai-600 034.



4.The Superintendent of Police,
Virudhunagar District, Virudhunagar.

5.The Assistant Commissioner/Executive Officer,
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Errukkankudi, Sattur Taluk,
Virudhunagar District.

6.The Deputy Superintendent of Police,
Sattur Division, Sattur.

7.The Inspector of Police,
Errukkankudi Police Station,
Sattur Taluk,
Virudhunagar District.

8.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate (SR-95276[F] dated
31/10/2019)

+1 CC to M/s.N. DILIP KUMAR, Advocate (SR-95845[F] dated 04/11/2019
)

+1 CC to M/s.C.M. ARUMUGAM, Advocate (SR-95855[F] dated
04/11/2019)

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KK/SAR/13.12.2019/4P-12C/