



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED :05.11.2019  
CORAM :

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

WEB COPY

Crl.O.P.(MD)No.8117 of 2018  
and  
Cr.M.P.(MD)Nos.3678 & 3679 of 2018

Ponmari ... Petitioner/Petitioner/Sole Accused

Vs.

1.The State Rep by  
The Inspector of Police,  
District Crime Branch,  
Tirunelveli,  
Tirunelveli District.

... Respondent/Complainant

2.Francis Ruby

... Respondent/Defacto Complainant

**Prayer:** Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records in connection with C.C.No.84 of 2018 on the file of the learned Judicial Magistrate No.I, Tirunelveli, Tirunelveli District in relation to Crime No.39 of 2010 on the file of the Inspector of Police, District Crime Branch, Tirunelveli, Tirunelveli District and quash the same as devoid of merits and illegal forthwith.

For Petitioner : Mr.S.Palani Velayutham  
For R1 : Mr.K.Suyambulinga Bharathi  
Government Advocate (Crl.Side)  
For R2 : Mr.George Ratna Raj

### O R D E R

This petition has been filed to quash the proceedings in C.C.No.84 of 2018 on the file of the learned Judicial Magistrate No.I, Tirunelveli, Tirunelveli District.

2. The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent person and she has not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No. 39 of 2010 for the offences under Sections 406 and 420 of IPC, as against the petitioner and taken cognizance for in C.C.No.84 of 2018. Hence he prayed to quash the same.



3. The learned Government Advocate (Crl.Side) would submit that some of the witnesses have been examined in this case.

4. Heard Mr.S.Palani Velayutham, learned counsel appearing for the petitioner, Mr.K.Suyambulinga Bharathi, learned Government Advocate (Crl.Side) appearing for the first respondent and Mr.George Ratna Raj, learned counsel appearing for the second respondent.

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. 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.

7. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.84 of 2018 on the file of the learned Judicial Magistrate No.I, Tirunelveli, Tirunelveli District. Hence this Criminal Original Petition stands dismissed. Consequently, Crl.M.P(MD) No.3679 of 2018 stands allowed and Crl.M.P (MD) No.3678 of 2018 is closed. However, the trial Court is directed to complete the trial within a period of nine months from the date of receipt of copy of this Order.

8. Further, the personal appearance of the petitioner is dispensed with and she shall be represented by a counsel after filing appropriate application. The petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS )

Dss

To

- 1.The Judicial Magistrate No.I,  
Tirunelveli, Tirunelveli District.
2. The Inspector of Police,  
District Crime Branch,  
Tirunelveli,  
Tirunelveli District.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



+1 CC to Mr.S.PALANI VELAYUTHAM, Advocate ( SR-96820[F] dated  
07/11/2019 )

Crl.O.P.(MD)No.8117 of 2018

and

Cr.M.P.(MD)Nos.3678 & 3679 of 2018

05.11.2019

WEB COPY

MK (26.11.2019) 4P 5C