



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)No.21820 of 2018

and

Crl.M.P.(MD)Nos.10129 & 10130 of 2018

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1. M/s.Nishanth Construtions,

2..M.Murugan, Partner,
Nishanth Construtions,

3.M.Chithra, Partner,
Nishanth Construtions

... Petitioners/Accused 1 to 3

-Vs-

A.Jeysingh

... Respondent /complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to S.T.C.No.88 of 2016 on the file of the Learned Judicial Magistrate Court, Kuzhithurai, and quash the same as illegal.

For Petitioners : Mr.J.Jeyakumaran

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in S.T.C.No.88 of 2016 on the file of the learned Judicial Magistrate, Kuzhithurai.

2.Heard both sides.

3.A careful perusal of entire materials available on record, the final report discloses a *prima facie* offence against the petitioners and there is no reason to interfere with the same. It is also relevant to rely upon the judgment of 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 Invstigation 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 petitioners cannot be considered by this Court under Section 482 Cr.P.C.

5. In view of the above discussions, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed. It is seen that the proceedings in S.T.C.No.88 of 2016 on the file of the learned Judicial Magistrate, Kuzhithurai, is pending from the year 2016. Therefore, the learned Judicial Magistrate, Kuzhithurai, is directed to complete the proceedings, within a period of six months from the date of receipt of a copy of this order.

6. At this juncture, the learned Counsel for the petitioners submitted that the third petitioner being a lady and hence, the presence of the third petitioner before the Trial Court may be dispensed with.

7. Accepting the said submission, the personal appearance of the third petitioner alone is dispensed with and she shall be represented by a counsel after filing appropriate application. The third 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 (AD-I)

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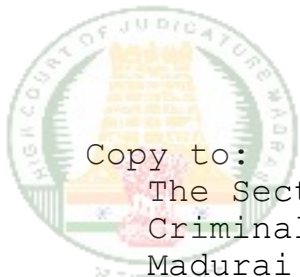
Sub Assistant Registrar(CS)

Ls

To

1. The Judicial Magistrate,
Kuzhithurai

<https://hcservices.ecourts.gov.in/hcservices/>



Copy to:
The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

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+1 CC to Mr.J.JEYAKUMAR, Advocate (SR-97610[F] dated 12/11/2019)

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