



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.11.2019**

CORAM:

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

**Crl.O.P. (MD)Nos.22423 to 22431 of 2018**

**and**

**Crl.M.P (MD)Nos.10498 to 10515 of 2018**

WEB COPY

Nalini ...Petitioner/Accused No.8 in Crl OP(MD)No.22423 of 2018  
Nalini ...Petitioner/Accused No.5 in Crl OP(MD)No.22424 of 2018  
Nalini ...Petitioner/Accused No.5 in Crl OP(MD)No.22425 of 2018  
Nalini ...Petitioner/Accused No.6 in Crl OP(MD)No.22426 of 2018  
Nalini ...Petitioner/Accused No.5 in Crl OP(MD)No.22427 of 2018  
Nalini ...Petitioner/Accused No.7 in Crl OP(MD)No.22428 of 2018  
Nalini ...Petitioner/Accused No.8 in Crl OP(MD)No.22429 of 2018  
Nalini ...Petitioner/Accused No.8 in Crl OP(MD)No.22430 of 2018  
Nalini ...Petitioner/Accused No.8 in Crl OP(MD)No.22431 of 2018

1.The State of Tamil Nadu

rep by the Inspector of Police

C.C.I.W-CID, Trichirappalli

(Cr.No.1/2014)

...1<sup>st</sup> Respondent/Complainant  
(in all cases)

2.Athmanathan

...2<sup>nd</sup> Respondent/Defacto Complainant  
(in all cases)

COMMON PRAYER IN CRL OP.Nos.(MD)22423 TO 22431 OF 2018:

This Criminal Original Petition filed under section 482 of Code of Criminal Procedure, to call for the records pertaining to the Charge Sheet in C.C.Nos.98,99,100,101,102,103,113,114 and 115 of 2016 respectively, on the file of the Judicial Magistrate, Musiri and quash the same in so far as the petitioner in concerned.

For Petitioner:Mr.C.K.M.Appaji  
(in all cases)

For Respondent No.1:Mr.K.Suyambulinga Bharathi  
Government Advocate(Crl.side)  
(in all cases)

For Respondent No.2:No Appearance  
(in all cases)

### **ORDER**

These petitions have been filed to quash the proceedings in C.C.Nos.98,99,100,101,102,103,113,114 and 115 of 2016 on the file of the Judicial Magistrate, Musiri, as against the



petitioner.

2. Heard both sides.

3. A careful perusal of entire materials available on record, the charge sheet discloses a *prima facie* offence against the petitioner 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 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.

4. 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



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 applicable to this case and as such, the points raised by the petitioner cannot be considered by this Court under Section 482 Cr.P.C.

5. There is an incriminating evidence as against the petitioner in respect of her thumb impression has been sent for expert opinion and found that it is matched with one of the victim, namely Chellammal. Therefore, though the petitioner is not an employee of the society and no surcharge proceedings have been initiated against her, the criminal prosecution can be proceeded against her. Therefore, this Court finds no merits in these petitions.

6. Hence, the Criminal Original Petitions are dismissed. However, considering the fact that the trial is pending from the year 2016, the learned Judicial Magistrate, Musiri, is directed to proceed with the trial and complete the same within a period of one year from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CO)

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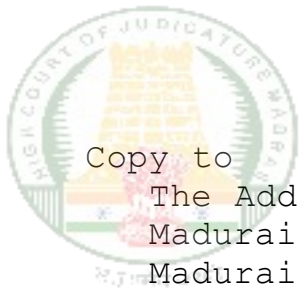
Sub Assistant Registrar (CS)

vsd

To

1. The Judicial Magistrate,  
Musiri.

2. The Inspector of Police,  
C.C.I.W - CID.,  
Tiruchirappalli.



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

+1 CC to Mr.C.K.M.APPAJI, Advocate ( SR-96478[F] dated  
06/11/2019 )

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KM/ (19.12.2019) 4P 5C