



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 26.11.2019
CORAM :

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

WEB COPY

Crl.O.P.(MD)No.15911 of 2019
and
Cr.M.P.(MD)Nos.9448 and 9449 of 2019

A.R.Gokulakrishnan

... Petitioner

Vs.

1.The State of Tamil Nadu

Rep.by its Inspector of Police,
Anti Land Grabbing Special Cell,
District Crime Branch,
Dindigul District.
Crime No.67 of 2014.

... 1st Respondent / Complainant

2.K.Natarajan

...2nd Respondent / Defacto Complainant

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records relating to the case in C.C.No.16 of 2019, on the file of the Special Court for Exclusive Trial of Land Grabbing Cases, Madurai and quash the same as illegal in so far as the petitioner is concerned.

For Petitioner : Mr.M.Murugan

For R1 : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.Side)

O R D E R

This petition has been filed to quash the proceedings in C.C.No.16 of 2019, pending on the file of the Special Court for Exclusive Trial of Land Grabbing Cases, Madurai, in so far as the petitioner is concerned.

2. The learned Counsel appearing for the petitioner would submit that the petitioner filed a writ petition for removing the encroachment by the second respondent and as such, a false complaint has been foisted as against the petitioner. The petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.67 of 2014 for the offences under Sections 120(b), 420, 423, 465, 468, 471, 294(b) and 506(i) IPC, as against the petitioner and taken cognizance for in C.C.No.16 of 2019. 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.M.Murugan, learned counsel appearing for the petitioner, Mr.K.Suyambulinga Bharathi, learned Government Advocate (Crl.Side) appearing for the first 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 petitioners 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.16 of 2019 pending on the file of the Special Court for Exclusive Trial of Land Grabbing Cases, Madurai. Hence, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed. However, the trial Court is directed to complete the trial within a period of three months from the date of receipt of copy of this Order.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Special Court for Exclusive Trial of
Land Grabbing Cases, Madurai.

2.The Inspector of Police,
Anti Land Grabbing Special Cell,
District Crime Branch, Dindigul District.

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

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-101825[F] 27/11/2019)

CrI.O.P.(MD)No.15911 of 2019

and

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