



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P. (MD) .No.11921 of 2017

and

Crl.M.P. (MD) Nos.8194 & 8195 of 2017

1) Ganeshan

2) Dhamotharan

3) Rajan

4) Muthaiyan

5) Siva @ Sivakumar

6) Jeyaraj

... Petitioners/ Accused 1 to 6

Vs.

1) Ganapathy

... 1st Respondent / Petitioner

2) The Inspector of Police,
Manavalamkurichi Police Station,
Kanyakumari District.

... Respondent / Complainant

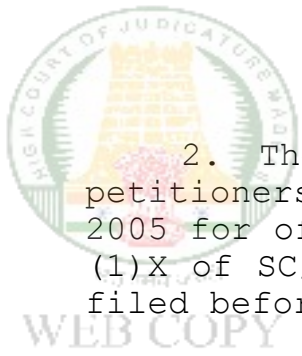
PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records pertaining to the orders passed in Crl.Revision Petition No.20 of 2009 dated 05.09.2013 on the file of the learned Sessions Court, Nagercoil, Kanyakumari revising the order passed by Judicial Magistrate, Eraniel in Cr.M.P.No.3363 of 2007 dated 03.09.2007 and to set aside the same.

For Petitioners : Mr.S.C.Herold Singh

For R2 : Mr.S.Chandrasekar
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed challenging the order passed by the Court below allowing the protest petition filed by the first respondent and setting aside the order passed by the learned Judicial Magistrate, Eraniel.



2. The first respondent had given a complaint against the petitioners and an F.I.R. came to be registered in Crime No.241 of 2005 for offence under Sections 147, 294(b), 506(ii) of I.P.C. and 3(1)(X) of SC/ST Act. After investigation, a closure report came to be filed before the learned Judicial Magistrate, Eraniel.

3. The first respondent filed a protest petition before the learned Judicial Magistrate, Eraniel in Cr.M.P.No.3363 of 2007 and the same was dismissed by the learned Judicial Magistrate, Eraniel by an order dated 03.09.2007. Aggrieved by the same, the first respondent filed a criminal revision petition before the Sessions Court, Nagercoil and the said revision was allowed by order dated 05.09.2013. Aggrieved by the same, the present criminal original petition has been filed.

4. The learned counsel for the petitioners submitted that the entire dispute between the parties is civil in nature and a false complaint has been given by the first respondent. The learned counsel further submitted that the police conducted a thorough enquiry and found the complaint to be false and therefore, a closure report was filed. Even the protest petition was dismissed and the Sessions Court went wrong in entertaining the revision and directed the trial Court to take the final report on file and proceed further in accordance with law.

5. The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that, pursuant to the orders passed by the Sessions Court, the learned Judicial Magistrate, Eraniel has already taken the final report on file in P.R.C.No.25/2014 for offences under Section 147, 294(b) 506(ii) IPC and Section 3(1)(X) of SC/ST Act.

6. In view of the above development, this Court is not inclined to interfere with the order passed by the Sessions Court, Nagercoil at this stage.

7. The learned counsel for the petitioners also requested this Court to dispense with the appearance for the petitioners before the Court below.

8. Considering the facts and circumstances of the case, the presence of the petitioners is dispensed with and they shall be represented by a counsel before the Court below. The petitioners shall be present at the time of framing of charges, questioning under Section 313 of Cr.P.C and at the time of final hearing. The learned counsel representing the petitioners shall cross examine the witnesses on the same day, they are examined in chief and the petitioners shall not dispute the identity of the witnesses.

<https://hcservices.courts.gov.in/hcservices/> Criminal Original Petition is disposed of with a direction to the learned Judicial Magistrate, Eraniel, to immediately commit the case to the Special Court dealing with SC/ST



cases. The Special Court, immediately on receipt of the case records, shall proceed further and complete the proceedings within a period of three(03) months thereafter. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

- 1) The Sessions Court,
Nagercoil, Kanyakumari
- 2) The Court of the Judicial Magistrate,
Eraniel.
- 3) The Inspector of Police,
Manavalamkurichi Police Station,
Kanyakumari District.
- 4) The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.S.C.HEROLD SINGH,Advocate (SR-88466[F] dated 23/09/2019)

Order made in
Crl.O.P. (MD) .No.11921 of 2017
20.09.2019

sts

VB(14.10.2019) 3P 6C