



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2019

CORAM

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

CRL.O.P (MD) No.17525 of 2019

and

CrI.M.P. (MD) No.10367 of 2019

1. V.Juliet
2. V.Santhini

... Petitioners / Respondent 1 & 2

Vs

Suseela

... Respondent / Petitioner

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to quash the proceedings initiated by the respondent herein in M.C.No. 25 of 2019 on the file of the learned Chief Judicial Magistrate, Thoothukudi, Thoothukudi District as against the petitioners herein under Section 125 of Cr.P.C

For Petitioners : Mr.A.Thiruvadi Kumar

O R D E R

This petition has been filed to quash the proceedings in M.C.No. 25 of 2019 on the file of the learned Chief Judicial Magistrate, Thoothukudi, Thoothukudi District, having been taken cognizance under Section 125 of Cr.P.C as against these petitioners.

2.The learned counsel appearing for the petitioners would submit that the petitioners herein are the daughter of the respondent. He would also submit that the petitioners are ready to maintain the respondent, but the respondent is not willing to accept the same. Hence they prayed for quashing the same.

3. Heard the learned counsel for the petitioner and perused the materials available on records.

4.It is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in **CrI.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.

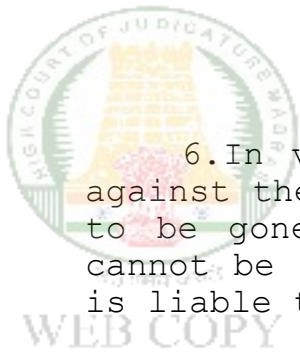
13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

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



6. In view of the above citations, the criminal proceedings against the petitioners cannot be quashed at its threshold and it has to be gone in to by full fledged trial. Therefore, the charges cannot be quashed at this stage and this criminal original petition is liable to be dismissed.

7. Accordingly, this criminal original petition is dismissed with the liberty to the petitioners to raise all the grounds before the trial Court. Consequently, connected miscellaneous petition is also dismissed. Further the trial Court is directed to complete the trial within a period of six months from the date of receipt of a copy of this order.

8. The personal appearance of the petitioners before the trial Court is dispensed with, except the dates on which, the trial Judge insisted the petitioner for their appearance.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

The Chief Judicial Magistrate,
Thoothukudi, Thoothukudi District.

+1 CC to M/s.A. THIRUVADI KUMAR, Advocate (SR-102283[F] 28/11/2019)

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