



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.11.2019
CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P (MD) No.17241 of 2019

and

CrI.M.P.(MD) Nos.10184 and 10185 of 2019

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1.Arputharaj
2. Arockiyamary
3. Johnson
4. Stella Mary
5. Nithya

... Petitioners/Accused 1 to 5

Vs

S. Arokiya Gnana Deepa

... Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in connection with the Cr.M.P.No.58 of 2019 on the file of the learned Judicial Magistrate, Devakottai and quash the same in respect of the petitioners.

For Petitioners : Mr.S.M.Sanjay

O R D E R

This petition has been filed to quash the proceedings in Cr.M.P.No.58 of 2019 on the file of the learned Judicial Magistrate, Devakottai .

2. The main allegation is that on 25.06.2019 at about 07.30 a.m some unidentified persons entered into the house of the complainant and attacked her for the reason that they were made to threaten to withdraw the case against the first petitioner and when the matter was enquired by the police, it reveals that no such occurrence took place. Hence he has filed the present petition to quash the proceedings.

3. Heard Mr.S.M.Sanjay learned counsel appearing for the petitioners.

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 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.

6. Considering the fact that there are serious allegations against the petitioners, which has to be investigated, this Court is not inclined to quash the proceedings in Cr.M.P.No.58 of 2019 on the file of the learned Judicial Magistrate, Devakottai. Hence this Criminal Original Petition stands dismissed. Consequently, all other miscellaneous petitions are closed.



7. The personal appearance of the petitioners 2 to 5 before the trial Court is dispensed with, except the dates on which, the trial Judge insisted the petitioner for their appearance.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

aav

To

The Judicial Magistrate, Devakottai

+1 CC to Mr.S.M. SANJAY, Advocate (SR-101077[F] dated 25/11/2019)

Crl.O.P (MD) No.17241 of 2019

and

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