



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2019

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.17418 of 2019

and

Crl.M.P (MD) Nos.10263 and 10264 of 2019

A. Selvakumar ... Petitioner/Accused

Vs.

1. The State rep. by
The Inspector of Police
Sendhamaram Police Station
Tenkasi District
(Formerly Tirunelveli District) ... 1st Respondent/Complainant
2. Dharmaraj
Sub Inspector of Police
Sendhamaram Police Station
Tenkasi District
(Formerly Tirunelveli District) ... 2nd Respondent/Defacto
Complainant

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in C.C.No.60 of 2019 on the file of the learned Judicial Magistrate Court, Tenkasi the charge sheet, the consequential further proceedings

For Petitioner : Mr.C.Karthik

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

ORDER

This Criminal Original Petition has been filed seeking to quash final report filed by the respondent police which has been taken on file in C.C.No.60 of 2019 on the file of the learned Judicial Magistrate Court, Tenkasi

2. The final report has been filed against the petitioner for an alleged offence under section 379 of IPC.

3. The learned counsel for the petitioner would submit that in



this case both the complainant as well as the investigating officer are the same.

4.It can be seen from records that the First Information Report was registered by the second respondent and he is conducting the investigation and he has also filed the final report. Therefore the very same investigation in this case is vitiated. This case is squarely covered by the judgment of the Honourable Supreme Court in **Mohan Lal- vs- The State of Punjab in Criminal Appeal No.1880 of 2011**, wherein the Honourable Supreme Court has categorically held that the foundation of the fair trial postulates that the informant and the investigator must not be the same person.

5. In view of the above the final report filed by the respondent police in C.C.No.60 of 2019 on the file of the Judicial Magistrate Court, Tenkasi is hereby quashed and the Criminal Original Petition is allowed. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

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To

1. The Judicial Magistrate, Tenkasi

2. The Inspector of Police
Sendhamaram Police Station
Tenkasi District,
(Formerly Tirunelveli District)

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

+1 CC to M/s.C.KARTHIK, Advocate (SR-101707[F] dated 27/11/2019)

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