



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2019

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P. (MD) No. 18108 of 2019

and Crl.M.P. (MD) Nos. 10679 & 10680 of 2019

1. Ramachandran
2. Esakkimuthu

... Petitioners/Accused-1 & 2

Vs

1. The State rep. by,
The Inspector of Police,
Alwarthirunagari Police Station,
Thoothukudi District.
(Crime No. 79 of 2018)

... 1st Respondent/Complainant

2. Nagammal @ Sudha

... 2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pertain to the impugned case in C.C. No. 147 of 2019 on the file of the Judicial Magistrate Court, Srivaikundam, Thoothukudi District and quash the same as illegal.

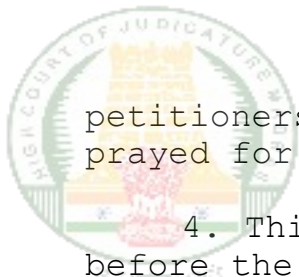
For Petitioners : Mr.T. Indrachithu
For Respondent-1 : Mr.S.Chandrasekar
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No. 147 of 2019 on the file of the learned Judicial Magistrate, Srivaikundam, Thoothukudi District.

2. The learned counsel appearing for the petitioners would submit that the petitioners and the defacto complainant are relatives. Due to family dispute between the petitioners and the second respondent a false case in Crime No. 79 of 2018, dated 18.05.2018 for the offences under sections 341, 294(b), 352, 506(ii) of IPC and the same has been taken cognizance in C.C. No. 147 of 2019 on the file of the learned Judicial Magistrate, Srivaikundam. He would also submit that the ingredients of offences would not attract as against the petitioners.

3. The learned Additional Public Prosecutor would submit that there are materials available to proceed with the case as against the petitioners herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the



petitioners have to be gone into a full-fledged trial and hence, he prayed for dismissal of the petition.

4. This Court is of the view that all the grounds can be raised before the trial Court and there is no merit in the quash petition.

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5. At this juncture, the learned counsel appearing for the petitioners prayed that the personal appearance of the petitioners before the trial Court, may be dispensed with. He would also seeks that the time frame may be fixed to the trial Court to complete the trial.

6. Accepting the said submission, the presence of the petitioners before the trial Court shall be dispensed with on condition that they shall be present on the first day of appearance, on the date fixed for receiving the copies, initial questioning, reply to charges and questioning under Section 313 of Cr.P.C., and at the time of passing judgment and whenever insisted upon by the trial court.

7. The petitioners are further directed to give an undertaking in the form of affidavit that they will be duly represented by a counsel on all hearing dates and that the Counsel representing them will cross examine the prosecution witnesses on the same day they are examined in chief. The petitioners shall not dispute the identity of the witnesses. The petitioners shall appear before the Court in the event their presence is insisted by the trial judge for the purpose of identification. If the petitioners adopts any dilatorial tactics, it is open to the Trial Court to insist for their appearance and deal with the petitioners in accordance with the judgment of Supreme Court of India, **in State of Uttar Pradesh Vs. Shambunath Singh**, reported in **2001 (4) SCC 667**. The learned Judicial Magistrate, Srivaikundam, Thoothukudi District is directed to complete the trial in C.C. No. 147 of 2019, within a period of **Six Months**, from the date of receipt of a copy of the order.

8. Accordingly, this Criminal Original Petition dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Judicial Magistrate,
Sri Vaikundam,
Thoothukudi District.
2. The Inspector of Police,
Alwarthirunagari Police Station,
Thoothukudi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T.INDRACHITHU, Advocate (SR-103626[F] dated 05/12/2019)

Crl.O.P. (MD) No.18108 of 2019
04.12.2019

kmk (CO)
TR (30.12.2019) 3P 5C