



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2019

CORAM :

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

Crl.O.P.(MD)No.17955 of 2019

Jaya Premsingh

... Petitioner / Sole Accused

Vs.

1.The State Rep by its
The Inspector of Police,
Thermal Nagar Police Station,
Thoothukudi District.
(Crime No.127/2015)

... 1st Respondent / Complainant

2.Ponnudurai

... 2nd Respondent / Defacto Complainant

3.Muthulakshmi

...3rd Respondent / Victim

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the entire records relating to the proceedings of the charge sheet in Spl.S.C.No.111 of 2017, on the file of the Mahila Court, Thoothukudi and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.N.Ramesh Arumugam

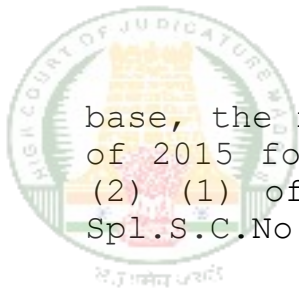
For R1 : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.Side)

For R2 and R3 : Mr.A.Karthick Kumar

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in Spl.S.C.No.111 of 2017, on the file of the Mahila Court, Thoothukudi, in so far as the petitioner is concerned.

2. The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Without any



base, the first respondent police registered a case in Crime No.127 of 2015 for the offences under Sections 451, 376(2) (1) @ 450, 376 (2) (1) of IPC, as against the petitioner and taken cognizance in Spl.S.C.No.111 of 2017. Hence he prayed to quash the same.

3.The learned Government Advocate (Crl.Side) would submit that some of the witnesses have been examined in this case.

4.Heard Mr.N.Ramesh Arumugam, learned counsel appearing for the petitioner, Mr.K.Suyambulinga Bharathi, learned Government Advocate (Crl.Side) for first respondent and Mr.A.Karthick Kumar, learned counsel appearing for the second and third respondents.

5.It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in **Crl.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.

6. 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.

7. In view of the above discussion, this Court is not inclined to quash the proceedings in Spl.S.C.No.111 of 2017, on the file of the learned Mahila Court, Thoothukudi. Hence this Criminal Original Petition stands dismissed. However, the trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of this Order.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Mahila Court, Thoothukudi.
2. The Inspector of Police,
Thermal Nagar Police Station,
Thoothukudi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.17955 of 2019
29.11.2019

das

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