



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2019

CORAM:

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

CRL.O.P (MD) No.19250 of 2019

and

CRL.M.P (MD) Nos.11303 and 11304 of 2019

1.Parimalam

2.V.S.Usha

... Petitioners/Accused Nos.4 & 5
Vs.

1.The State Rep. by,

The Inspector of Police,
All Women Police Station,
Nagercoil District.
(Crime No.22 of 2016)

.. 1st Respondent/Complainant

2.Malathi

...2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to C.C.No.228 of 2018, pending on the file of the Additional Mahila Magistrate Level Court, Nagercoil and to quash the same so far as the petitioners are concerned.

For Petitioners : Mr.C.Christopher

For 1st Respondent : Mr.S.Chandrasekar

Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.228 of 2018, pending on the file of the Additional Mahila Magistrate Level Court, Nagercoil.

2.The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case with oblique motive. The respondent police conducted the investigation in a mechanical manner and filed the charge sheet as against the petitioners and hence, sought for quashment of the proceedings.

3.The learned Additional Public Prosecutor submitted 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 framed against the petitioners have to be gone into a full-fledged trial. Further, he would submit that the trial has also commenced 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.



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.

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 at the time for 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 adopt 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**.

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

Sd/-

Assistant Registrar (crl side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsg

To

1. The Additional Mahila Magistrate Level Court,
Nagercoil.

2. The Inspector of Police,
All Women Police Station,
Nagercoil District.

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

+1 CC to Mr.C.CHRISTOPHER, Advocate (SR-106305[F] dated
20/12/2019)

CRL.O.P(MD) No.19250 of 2019
and

CRL.M.P (MD) Nos.11303 and 11304 of 2019
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