

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29.05.2020

CORAM:

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

Crl.O.P.No.8003 of 2020
and
Crl.M.P.Nos.4022 and 4023 of 2020

1. Raghul Dinesh
2. Kala Nayaki
3. Sivamani @ SivasubramaniamPetitioners/Accused 1 to 3

Vs.

1. The Sub Inspector of Police,
All Women Police Station,
Pollachi.
(Crime No.9/2019)
2. Krithika Devi
....Respondents/Complainant/Defacto
Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Produce Code to call for records related to the case in C.C.No.603 of 2019 on the file of the learned Judicial Magistrate No.I, Pollachi, Coimbatore District and quash the same.

For Petitioners :Mr.R.Sasikumar

For Respondent-1:Mr.K.Prabhakar
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petition has been filed to call for records related to the case in C.C.No.603 of 2019 on the file of the learned Judicial Magistrate No.I, Pollachi, Coimbatore District and quash the same.

2. The learned Counsel for the the petitioner submitted that the entire allegations in the complaint are false, absolutely a false case which is unbelievable has been given by the defacto complainant and the respondent police without conducting a proper enquiry has filed the final report. The 2nd and 3rd petitioners who are senior citizen and relative of the 1st petitioner have been unnecessarily roped in.

3. Per contra, the learned Additional Public Prosecutor would submitted that the there are materials available for proceeding with the case as against the petitioners herein and the trial court finding that there are materials against the petitioners, had framed charges and the case has been posted for trial. He would further submit that since there are materials against the petitioners, the criminal proceedings cannot be quashed at the threshold and the charges framed against the petitioners have been gone for full fledged trial. 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 2 and 3 before the trial Court, may be dispensed with.

6. Accepting the said submission, the presence of the petitioners 2 and 3, 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 judgement and whenever insisted upon by the trial court.

7. The petitioners 2 and 3 are further directed to give an undertaking in the form of affidavit that he 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 2 and 3 shall not dispute the identity of the witnesses. The petitioners 2 and 3 shall appear before the Court in the event of their presence is insisted by the trial judge for the purpose of identification. If the petitioners 2 and 3 adopt any dilatorial tactics, it is open to the Trial Court to insist for their appearance and deal with the petitioners 2 and 3 in accordance with the judgement 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 stands dismissed. Consequently, connected Miscellaneous petition in Crl.M.P.No.4022 of 2020 stands closed and Crl.M.P.No.4023 of 2020 is partly allowed.

s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

ksa-2/kmm

To

1. The Judicial Magistrate No.I
Pollachi, Coimbatore District.
2. The Sub Inspector of Police,
All Women Police Station,
Pollachi.
3. The Public Prosecutor,
The High Court of Madras.

Crl.O.P.No.8003 of 2020
and
Crl.M.P.Nos.4022 and 4023 of 2020

AK (CO)
SP (02/06/2020)

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