



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.02.2020

CORAM:

THE HONOURABLE **MR.JUSTICE A.D.JAGADISH CHANDIRA**

Crl.O.P. (MD)No.1883 of 2020

and

Crl.M.P. (MD)Nos.939 and 940 of 2020

WEB COPY

1. P.Rasupillai

2. P.Karmegam

: Petitioners

Vs.

1.The Inspector of Police,
Nagamalaipudukottai Police Station
Nagamalaipudukottai
Madurai(crime no.190/2011)

2.N.Chinnakkalai

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the charge sheet in CC No.127 of 2012 on the file of the learned Judicial Magistrate No.VI, Madurai and quash the same as illegal.

For Petitioners : Mr.G.Thiruvartselvan

For R1 : Mr.S.Chandrasekar

Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings in CC No.127 of 2012 on the file of the learned Judicial Magistrate No.VI, Madurai.

2.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has 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 petitioner. He would also submit that the CC is of the year 2012 and matter is pending for evidence for the past seven years. He would also submit that the petitioners are senior citizens and they have been unnecessarily implicated in this case. He would also submit that the prosecution has not produced any witnesses so far 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 petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charges framed against the petitioner has to be gone into a full-fledged trial. Further, he would submit that the trial has also been commenced and the case



stands posted to 21.02.2020. He would also submit that there are totally eight witnesses in this case 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 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**.

8.Accordingly, this Criminal Original Petition dismissed. Consequently, connected Miscellaneous Petition in Crl.M.P(MD) No.939 of 2020 stands closed and Crl.M.P(MD) No.940 of 2020 stands ordered. Further the trial court is directed to complete the trial proceedings within a period of four months from 21.02.2020.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



1.The Judicial Magistrate No.VI, Madurai

2.The Inspector of Police,
Nagamalaipudukottai Police Station
Nagamalaipudukottai
Madurai

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

+2CC to MR.G.THIRUVARUTSELVAM, Advocate (SR-4800,2511[F] dated
05/02/2020)

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