



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.02.2020

CORAM

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

CRL.O.P (MD) No.2321 of 2020

and

Crl.M.P.(MD).Nos.1197 and 1198 of 2020

WEB COPY

1.Sujatha
2.Prabhu
3.Krishnaveni ... Petitioners/Accused Nos.1 to 3
Vs

1.The Inspector of Police,
Golden Rock Police Station,
Trichy City.
(Crime No.343 of 2018) ...1st Respondent/Complainant

2.Chandra ...2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in C.C.No.2634 of 2019 on the file of the learned Judicial Magistrate No.V, Trichy and quash the same.

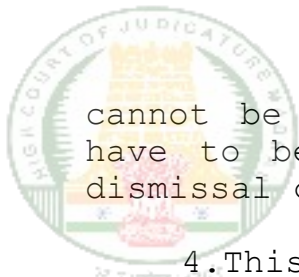
For Petitioners : Mr.B.Jameel Arasu
For 1stRespondent : Mr.S.Chandrasekar
Additional Public Prosecutor

O R D E R

This petition has been filed to quash the proceedings in C.C.No.2634 of 2019 on the file of the learned Judicial Magistrate No.V, Trichy, for the offences under Sections 427 and 448 of IPC in Crime No.343 of 2018.

2.The learned counsel appearing for the petitioners would submit that the defacto complainant has not produced any documents to prove that the petitioners have damaged the house and removed the electric materials of the defacto complainant. The prosecution against the petitioners cannot be sustained for criminal trespass and mischief. He would further submit that the petitioners are innocent persons and they have been falsely implicated in this case with oblique motive. The first 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. 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 petitioner 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 his 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.1197 of 2020 stands closed and Crl.M.P(MD) No.1198 of 2020 stands ordered.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

vsg

To

1.The Judicial Magistrate No.V,
Trichy.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Inspector of Police,
Golden Rock Police Station,
Trichy City.

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

+1 CC to M/s.B.JAMEEL ARASU, Advocate (SR-5764[F] dated
12/02/2020)

CRL.O.P (MD) No.2321 of 2020
and
Cr1.M.P.(MD).Nos.1197 and 1198 of 2020

KK/27.02.2020/3P-5C

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