



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2020

CORAM:

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

Cr1.O.P.[MD] Nos.2621 and 2737 of 2020

Cr1.O.P[MD]No.2621 of 2020

- 1.Saravanan
- 2.Chandramohan
- 3.Elangovan
- 4.Sirrangam
- 5.Kamaraj
- 6.Jothibas
- 7.Dheebanraj
- 8.Esuraja
- 9.Bharathiraj
- 10.Karkimuruganantham
- 11.Jothibas
- 12.Ganesamoorthi

: Petitioners/A1 to A12

vs.

- 1.The State rep. by
The Inspector of Police,
Pappanadu Police Station,
Thanjavur District.
In Crime No.03 of 2018.

- 2.Ananthan

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records pertaining to the Charge Sheet in C.C.No.42 of 2018 for an alleged offence against the petitioners under Section 147, 148, 294(b), 506(ii), 352 and 341 of IPC on the file of the learned District Munsif-cum-Judicial Magistrate, Orathanadu, Thanjavur District and quash the same.

For Petitioners : Mr.M.Maran

For Respondents : Mr.S.Chandrasekar,
Addl. Public Prosecutor

**Crl.O.P[MD]No.2737 of 2020**

- 1.Suko @ Sugov
- 2.Akash
- 3.Rajkumar
- 4.Vignesh
- 5.Aswin
- 6.Ramadurai
- 7.Vijay
- 8.Santhosh @ Santhoshkumar
- 9.Agun
- 10.Appuraj
- 11.Suresh
- 12.Abinesh
- 13.Ramkumar

: Petitioners/A1 to A3, A5 to A14

vs.

- 1.The State rep. by
The Deputy Superintendent of Police,
Pappanadu Police Station,
Orathanadu Division,
Thanjavur District.
In Crime No.02 of 2018.

- 2.Rajkumar
- : Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records pertaining to the Charge Sheet in Spl.S.C.No.81 of 2018 for an alleged offence under Section 147, 148, 294(b), 324, 307, 448, 352 of IPC and Section 3(1) of TNPPDL Act, and Section 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST POA Act on the file of the I Additional District and Sessions Judge for PCR Cases, Thanjavur and quash the same.

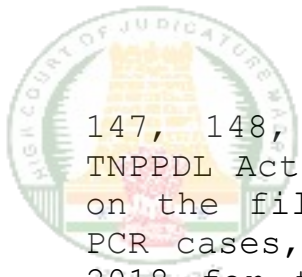
For Petitioners : Mr.M.Maran

For Respondents : Mr.S.Chandrasekar,
Addl. Public Prosecutor

COMMON ORDER

By consent of all the counsels, these matters are taken up for final disposal.

2.Both the cases have been filed seeking to quash a charge sheet in Spl.S.C.No.81 of 2018 for the offences under Sections

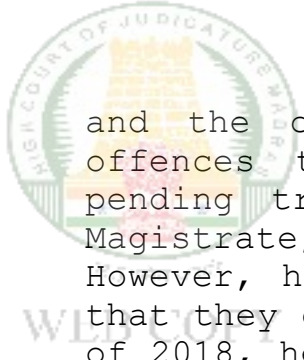


147, 148, 294(b), 324, 307, 448, 352 IPC and Section 3(1) of TNPPDL Act and Section 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST POA Act on the file of the I Additional District and Sessions Judge for PCR cases, Thanjavur and to quash a charge sheet in C.C.No.42 of 2018 for the offences under Sections 147, 148, 294(b), 506(ii), 352 and 341 of IPC pending on the file of the District Munsif-cum-Judicial Magistrate, Orathanadu, Thanjavur District, based on the compromise entered between the parties. This Court pointed out that the offences charged against the accused in Spl.S.C.No.81 of 2018 is a grievous offence.

3.The learned counsel appearing on either side would seek to withdraw the petition, however, the learned counsel on either side would submit that both cases arise out of the same occurrence and they are case and case in counter and that one of the cases is pending trial on the file of the District Munsif-cum-Judicial Magistrate, Orathanadu and other case is pending on the file of the I Additional District and Sessions Judge for PCR cases, Thanjavur. Since both the cases are out of one and the same transactions, they are in the nature of case or counter case or cross case and when one of the cases involves offences exclusively triable by the Court of Sessions, as per Section 323 Cr.P.C, the jurisdictional Magistrate ought to have committed both the cases for trial to the Court of Sessions and the trial should be conducted as per the procedure contemplated in **Nathilal and others vs. State of U.P and another** reported 1990(Supp) SCC 145.

4.A fair procedure to be adopted in matter like the present case is that the same Judge himself should try both the cross cases one after another and that after recording the evidence of one case, he must hear arguments and he must reserve judgments and thereafter, he may proceed to hear the cross case and after recording the evidence, he must hear arguments and reserve judgment in that case. The same Judge must thereafter dispose of the matter by two separate Judgments. In support this contention, the learned counsel for both parties, relied on a Judgment of the Hon'ble Supreme Court in the case of **Nathilal and others vs. State of U.P and another** reported 1990(Supp) SCC 145 and also the judgment of this Court in the case of **Ganesan and another vs. the Inspector of Police, Chennai** reported in 2011(5) CTC 747.

5.The learned Additional Public Prosecutor appearing for the respondent police would submit that both the cases arising out of one and the same incident. However, he would submit that since the case in Crime No.2 of 2018 relates to the offences under the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Amendment Act, 2015, the case is pending trial before the I Additional District and Sessions Judge for PCR cases, Thanjavur

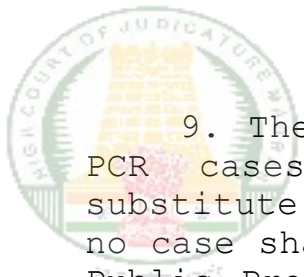


and the case in Crime No.3 of 2018 has been registered for offences triable by the Magistrate and thereby, the case is pending trial on the file of the District Munsif-cum-Judicial Magistrate, Orathanadu, Thanjavur District in C.C.No.42 of 2018. However, he would submit that both the cases are cross cases and that they can be tried together. In respect of the special S.C.81 of 2018, he would submit that the case is posted for appearance of the parties on 24.02.2020 and non-bailable warrant is pending against the fourth accused. In respect of the case pending before the District Munsif-cum-Judicial Magistrate, Orathanadu, he would submit that it has been posted to 07.03.2020 for appearance of parties. He would submit that C.C.No.42 of 2018 pending on the file of the District Munsif-cum-Judicial Magistrate, Orathanadu is ripe for trial. He would submit that both the cases can be tried before the I Additional District and Sessions Court for PCR cases, Thanjavur.

6.This Court has gone through the materials available on records.

7.Admittedly, Spl.S.C.No.81 of 2018 on the file of the I Additional District and Sessions Judge for PCR cases, Thanjavur arising out of Crime No.2 of 2018 and C.C.No.42 of 2018 pending on the file of the District Munsif-cum-Judicial Magistrate, Orathanadu, Thanjavur District arising out of Crime No.3 of 2018 are case in counter case arising out of same transactions.

8.In view of the same, this Court is of the opinion that C.C.No.42 of 2018 pending on the file of the District Munsif-cum-Judicial Magistrate, Orathanadu is to be committed to the I Additional District and Sessions Judge for PCR cases, Thanjavur to be tried along with Spl.S.C.No.81 of 2018. The learned District Munsif-cum-Judicial Magistrate, Orathanadu is directed to commit the case in C.C.No.42 of 2018 within a period of two weeks from the date of receipt of a copy of this order. Till such time, the Special Judge of I Additional District and Sessions Judge for PCR cases, Thanjavur is directed to stop the proceedings in Spl.S.C.No.81 of 2018 till the case bundle in C.C.No.42 of 2018 is received to his file. On receipt of case records, the learned I Additional District and Sessions Judge for PCR cases, Thanjavur shall scrupulously follow the procedure laid down by the Honourable Supreme Court of India in the case of **Nathi Lal and other Vs. State of U.P and another** reported in **1990 (Supp) SCC 145** and the judgment of this Court in the case of **Ganesan and Another -vs- The Inspector of Police, Chennai** reported in **2011 (5) CTC 747**.



9. The learned I Additional District and Sessions Judge for PCR cases, Thanjavur shall not record common evidence or substitute evidence in one case as evidence in other case and in no case shall deliver common judgment and there should be separate Public Prosecutors to conduct prosecution in both cases. After the receipt of case records, the I Additional District and Sessions Judge for PCR cases, Thanjavur shall endeavour to complete trial in both cases and render judgments within a period of four months from the receipt of case records in CC No. 42 of 2018 from the file of the learned District Munsif-cum-Judicial Magistrate, Orathanadu, Thanjavur District.

With the above directions, both the criminal original petitions are disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

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Sub Assistant Registrar(CS)

skn

To

1.The I Additional District and Sessions Judge for PCR cases,
Thanjavur.

2.The District Munsif-cum-Judicial Magistrate,
Orathanadu, Thanjavur District.

3.The Deputy Superintendent of Police,
Pappanadu Police Station,
Orathanadu Division, Thanjavur District.

4.The Inspector of Police, Pappanadu Police Station,
Thanjavur District.

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

+1 CC to M/s.M.MARAN, Advocate (SR-6827[F] dated 18/02/2020)

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