



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.02.2020

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Crl.O.P. (MD) .No. 2825 of 2020

and

Crl.M.P. (MD) Nos. 1490 & 1491 of 2020

1. Johnjoseph
2. John Robert

... Petitioners/A1 & A2

Vs.

1. The Inspector of Police,
Arumanai Police Station,
Kanyakumari District.
(In Crime No. 61 of 2019)

...1st Respondent/Complainant

2. Jaslinsam

...2nd Respondent/Defacto complainant

PRAYER: This Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for records relating to the charge sheet in C.C.No.358 of 2019 on the file of the Judicial Magistrate No.I, Kuzhithurai and quash the same.

For Petitioners : Mr.C. Susi Kumar

For R-1 : Mr.S. Chandrasekar,
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to quash the charge sheet in C.C.No.358 of 2019 on the file of the Judicial Magistrate No.I, Kuzhithurai.

2. The learned counsel appearing for the petitioners would submit that due to previous enmity a false complaint has been lodged by the defacto complainant against the petitioners. He would further submit that the alleged offences under Sections 294(b), 324 and 506(ii) of IPC would not attract as against the petitioners. He would further submit that there is no specific overt act as against the petitioners.



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 been 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 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 stands dismissed. Consequently, connected Miscellaneous Petition in Crl.M.P (MD) No.1490 of 2020 stands closed and Crl.M.P(MD) No.1491 of 2020 stands ordered.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To

1. The Judicial Magistrate No.I,
Kuzhithurai.
2. The Inspector of Police,
Arumanai Police Station,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.O.P. (MD) .No.2825 of 2020
18.02.2020

ksa

SDS (05.03.2020) 3P-4C