



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.02.2020

CORAM:

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THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Crl.O.P.(MD).No.2831 of 2020
and Crl.M.P.(MD) Nos. 1496 & 1497 of 2020

1.Prasanna Kumari
2.Pradheeja
3.Rajesh ...Petitioners

Vs.

1. The State represented by
The Inspector of Police,
AWPS Police Station,
Kuzhiturai,
Kanyakumari District.
(Crime No.15 of 2018)

2. V.N.Athira ... Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.402 of 2019 on the file of the Judicial Magistrate Court No.2, Padmanabhapuram, Kanyakumari District, and quash the same as against the petitioners concerned.

For Petitioners : Mrs.L.Victoria Gowri

For 1st Respondent : Mr.S.Chandrasekar,
Additional Public Prosecutor

O R D E R

The Criminal Original Petition has been filed to quash the proceedings in C.C.No.402 of 2019 on the file of the Judicial Magistrate Court No.2, Padmanabhapuram, Kanyakumari District as against the petitioners.

2.The learned counsel appearing for the petitioners would submit that due to matrimonial dispute between the petitioners and the defacto complainant a false case has been registered against the petitioners. He would further submit that the ingredients of offences under Sections 498(A), 406 of IPC and Section 4 & 6 of D.P. Act would not attract as against the petitioners. He would further



submit that the petitioners are innocent persons and they have been falsely implicated in this case. The 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.

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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 has to be gone into a full-fledged trial. Further, he would submit that there are totally 12-witnesses in this case and the case was posted on 03.04.2020 and hence, he prayed for dismissal of the petition.

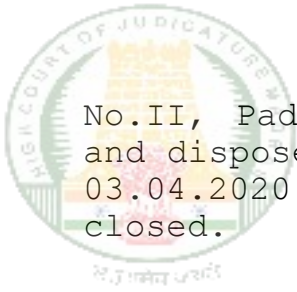
4.This Court is of the view that all the grounds can be raised before the trial Court and there is no merit in the quash petition.

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. However, direction is issued to the learned Judicial Magistrate



No.II, Padmanabhapuram, Kanyakumari District to complete the trial and dispose the case within a period of Four months from the date on 03.04.2020. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar (P&A)

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/ /2020

Sub Assistant Registrar(CS)

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To

1. The Judicial Magistrate No.II,
Padmanabhapuram,
Kanyakumari District.
2. The Inspector of Police,
AWPS Police Station,
Kuzhiturai,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.L.VICTORIA GOWRI, Advocate (SR-7098[F] dated 19/02/2020)

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18.02.2020

JMN(09.03.2020) 3P : 5C