



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2020

CORAM:

WEB COPY

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

Crl.O.P.(MD).No.3099 of 2020

and

Crl.M.P.(MD).Nos.1639 and 1641 of 2020

1.Selvi

2.Murugan

..Petitioners/Accused No.6 & 7

Vs.

1.The State rep. by,
The Inspector of Police,
District Crime Branch,
Virudhunagar,
Virudhunagar District.
(FIR No.64 of 2012)

2.Malliga

.. Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to proceedings of C.C.No.179 of 2015, on the file of the Judicial Magistrate Court No.II, Virudhunagar, Virudhunagar District and quash the same in so far as the petitioners alone.

For Petitioners : Mr.R.Murugappan
For 1st Respondent : Mr.S.Chandrasekar
Additional Public Prosecutor

O R D E R

This petition has been filed to quash the proceedings in C.C.No.179 of 2015, on the file of the Judicial Magistrate Court No.II, Virudhunagar, Virudhunagar District.

2.Heard learned counsel appearing for the petitioners and learned Additional Public Prosecutor appearing for the first respondent.

3.The learned counsel appearing for the petitioners would submit that the petitioners have been falsely implicated in this case, since there is a civil dispute pending between the petitioners and the second respondent. He would further submit



that the first respondent police conducted the investigation in a mechanical manner and filed charge sheet as against the petitioners and hence, sought for quashment of the proceedings.

4. The learned Additional Public prosecutor appearing for the first respondent police would submit that totally there are seven accused and twelve witnesses in this case. He would further submit that now the case stands posted on 28.02.2020 for examination of L.W.1 to L.W.3.

5. Having gone through the records, this Court is of the opinion 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 against the petitioners has to be gone into a full-fledged trial.

6. 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.

7. 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.

8. 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.

9. 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**.



10. Accordingly, this Criminal Original Petition dismissed. However, the Judicial Magistrate Court No.II, Virudhunagar, Virudhunagar District, is directed to complete the trial in C.C.No.179 of 2019 within a period of six months from 28.02.2020. Consequently, connected Miscellaneous Petition in Crl.M.P(MD) No.1639 of 2020 stands closed and Crl.M.P(MD) No.1641 of 2020 stands ordered.

Sd/-

Assistant Registrar(CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsg

To:

1.The Judicial Magistrate Court No.II,
Virudhunagar,
Virudhunagar District.

2.The Inspector of Police,
District Crime Branch,
Virudhunagar,
Virudhunagar District.

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

Crl.O.P.(MD).No.3099 of 2020

and

Crl.M.P.(MD).Nos.1639 and 1641 of 2020

—

KMV(CO)

TR(09.03.2020) 3P 4C