



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2020

CORAM:

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

WEB COPY

Crl.O.P.(MD)No.3845 of 2020

and

Crl.M.P.(MD).No.2080 of 2020

Elayaraja

... Petitioner/Accused No.3

Vs

1.State Rep. by,
The Inspector of Police,
Thoothukudi North Police Station,
Thoothukudi District.
(Crime No.740 of 2014)

...1st Respondent/Complainant

2.Saroja

...2nd Respondent/Defacto
Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to the proceedings in C.C.No.1124 of 2017 on the file of the learned Judicial Magistrate No.II, Thoothukudi, and quash the same as against the petitioner.

For Petitioners : Mr.S.Deenadhayalan

For 1stRespondent : Mr.R.Anandharaj
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.1124 of 2017 on the file of the learned Judicial Magistrate No.II, Thoothukudi, and quash the same as against the petitioner.

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

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that 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.



4.The learned Additional Public Prosecutor submitted that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charges framed against the petitioner has to be gone into a full-fledged trial and hence, he prayed for dismissal of the petition.

5.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.

6.At this juncture, the learned counsel appearing for the petitioner prayed that the personal appearance of the petitioner before the trial Court, may be dispensed with.

7.Accepting the said submission, the presence of the petitioner 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.

8.The petitioner is further directed to give an undertaking in the form of affidavit that he will be duly represented by a counsel on all hearing dates and that the Counsel representing him will cross examine the prosecution witnesses on the same day he is examined in chief. The petitioner shall not dispute the identity of the witnesses. The petitioner shall appear before the Court in the event of his presence is insisted by the trial judge for the purpose of identification. If the petitioner 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**.

9.Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petition in Crl.M.P(MD) No.2080 of 2020 stands ordered.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsg

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To

1.The Judicial Magistrate No.II,
Thoothukudi.

2.The Inspector of Police,
Thoothukudi North Police Station,
Thoothukudi District.

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

+1 CC to M/s.S.DEENADHAYALAN, Advocate (SR-9232[F] dated 28/02/2020
)

Crl.O.P.(MD)No.3845 of 2020
and

Crl.M.P.(MD) .No.2080 of 2020
28.02.2020

AP(20/03/2020) 3P 5C