



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

Crl.O.P.(MD).No.13021 of 2020

and

Crl.M.P.(MD) Nos.5933 & 5935 of 2020

WEB COPY

1.Palsamy Nadar

2.Mariselvam

..Petitioners/Accused 1 & 2

vs.

1.State represented by

The Inspector of Police

Tharuvaikulam Police Station

Thoothukudi District

(Crime No.103 of 2018)

...Respondent No.1/Complainant

2.Paramasivam

..2nd Respondent/Defacto Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the entire records relating in P.R.C.No.2 of 2019 on the file of the learned District Munsif Cum Judicial Magistrate, Vilathikulam, Thoothukudi District and quash the same as against the petitioners.

For Petitioners: Mr.S.Ramsundarvijayraj

For M/s.Veera Associates

For R1

: Ms.S.E.Veronica Vincent

Government Advocate (Crl.Side)

O R D E R

This Criminal Original Petition has been filed to call for the entire records relating in P.R.C.No.2 of 2019 on the file of the learned District Munsif Cum Judicial Magistrate, Vilathikulam, Thoothukudi District and quash the same as against the petitioners.

2.The learned counsel appearing for the petitioners reiterated the contentions set out in the original petition. Further, he submitted that the petitioners and the defacto complainant having civil dispute among themselves. Due to that, the petitioners and the defacto complainant attacked with each other and both parties were got treatment. Subsequently, the defacto complainant lodged a false complaint against the petitioners. Based on that complaint, the respondent police registered a case in Crime No.103 of 2018 for the offence under Sections 294(b), 324, 307, 506 (ii) I.P.C and Section 3 of TNPPDL Act. After completing investigation, the respondent police filed a charge sheet before the



jurisdictional Magistrate Court and the same was taken on file in P.R.C.No.2 of 2019 by the learned District Munsif Cum Judicial Magistrate, Vilathikulam, Thoothukudi District. Against which, the petitioners are before this Court.

3. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.Side) appearing for the first respondent and perused the materials available on record. In view of the order going to be passed, notice to the second respondent is not necessary.

4. The Hon'ble Supreme Court by judgment dated 02.12.2019 in **Crl.A.No.1817 of 2019 in the case of M.Jayanthi vs. K.R.Meenakshi and another** has held as follows:-

''9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.''

5. The complainant had made specific allegations in the complaint filed against the petitioners and therefore, the grounds raised in this petition can be gone into only in a full-fledged trial. Therefore, this Court is not inclined to interfere with the proceedings in P.R.C.No.2 of 2019. However, considering the age of the first petitioner, the personal appearance of the first petitioner before the trial Court is dispensed with except during the dates on which, the learned Judicial Magistrate insists his appearance if it is necessary.

6. With the above direction, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P & A)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Munsif Cum Judicial Magistrate,
Vilathikulam, Thoothukudi District.

2. The Inspector of Police
Tharuvaikulam Police Station
Thoothukudi District

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

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-22240[F] dated
20/11/2020)

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PE (CO)

NR (02/12/2020) 3P : 5C