



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.11.2020

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Crl.O.P. (MD)No.12994 of 2020

and

Crl.M.P (MD)Nos.5927 and 5928 of 2020

1.Raja @ Mohanraj

2.Abi @ Abinеш

... Petitioners/Accused Nos.1 & 3.

Vs.

1.State represented by

The Inspector of Police,
Nesamony Nagar Police Station,
Kanyakumari District.

Crime No.247 of 2016. ... 1st Respondent/Complainant

2.George Prabhu

... 2nd Respondent/Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the Charge sheet in C.C.No.108 of 2017 on the file of the Judicial Magistrate No.II, Nagercoil and quash the same as illegal in respect of the petitioners alone.

For Petitioners : Mr.G.Anto Prince

For 1st Respondent : Ms.S.E.Veronica Vincent,
Government Advocate (Criminal Side)

ORDER

This Criminal Original Petition has been filed to quash the Charge sheet in C.C.No.108 of 2017 on the file of the learned Judicial Magistrate No.II, Nagercoil, as illegal in respect of the petitioners alone.

2.The learned counsel appearing for the petitioners reiterated the contentions set out in the affidavit. He further submitted that the FIR does not disclose any cognizable offence made out under Section 294(b) of Cr.P.C. Further, the alleged place of occurrence is mentioned in the FIR as well as the Charge sheet, but there is a contradiction in respect of place of occurrence. He also submitted that the false complaint has been preferred by the defacto complainant against the petitioners with ulterior intention. Hence, the petitioners are present before this Court.



3.Heard the learned counsel for the petitioners and perused the materials available on record. In view of the order going to be passed, notice to the second respondent is not necessary.

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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.Here in the present case, 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. However, their personal appearance before the trial Court is dispensed with except during the dates on which, the learned Judicial Magistrate insists their appearance if it is necessary. Considering the facts and circumstance of the case, the learned Judicial Magistrate No.II, Nagercoil, is directed to conclude the entire trial proceedings within a period of three months from the date of receipt of a copy of this order.

6.With the above direction, this Criminal Original Petition is disposed of. Consequently, connected Crl.M.P.(MD)No.5927 of 2020 is closed and Crl.M.P.(MD)No.5928 of 2020 is ordered.

Sd/-

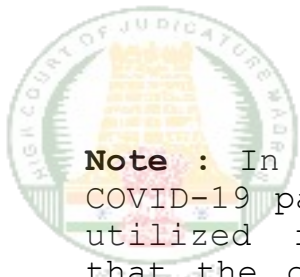
Assistant Registrar(CO)

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Sub Assistant Registrar(CS)

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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 Judicial Magistrate No.II, Nagercoil.
- 2.The Inspector of Police,
Nesamony Nagar Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.12994 of 2020
and
Crl.M.P (MD)Nos.5927 and 5928 of 2020
18.11.2020

sgs (CO)
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