



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.12.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

Crl.O.P(MD)No.15031 of 2020 and

Crl.MP(MD) Nos.7197 of 2020

WEB COPY

1.K.Ahamed
2.K.Shahul
3.A.Malukkamali
4.A.Katchi
5.A.Pitchai
6.Katbeevi

Petitioners/ Accused 1 to 6

Vs

1.The State Represented by
Inspector of Police,
Pathamada Police Station,
Pathamada - 627 453,
Tirunelveli District.

1st Respondent/Complainant

2.Syed Ahamed

2nd Respondent / Defacto
Complainant

PRAYER: Petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the FIR in Crime No.119 of 2019, on the file of the 1st respondent police and quash the same.

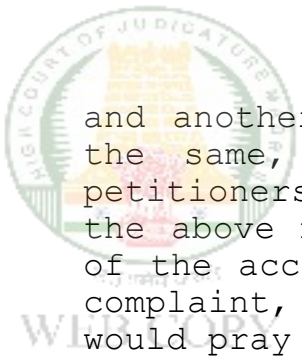
For Petitioners: Mr.S.Diraviam Dinesh

For R1 : Mr.V.Neelakandan
Additional Public Prosecutor(Crl.side)

O R D E R

This Criminal Original Petition has been filed to quash the FIR in Crime No.119 of 2019, on the file of the 1st respondent police

2.The learned counsel appearing for the petitioner would submit that based on the oral statement made by the 2nd respondent/defacto complainant, a case in Crime No.119 of 2019 has been registered against the petitioners, for the offences under Sections 147, 148, 294(b), 323 & 355 IPC. According to the petitioners, the above mentioned counter FIR was registered only hours after the 1st petitioner had lodged his written complaint and subsequent registration of Crime No.118 of 2019 against the 2nd respondent and 7 others. The learned counsel for the petitioners would submit that there is a civil dispute between the petitioners



and another group namely Konnaiyampillai Vagaiyara, with regard to the same, two civil suits were pending. The grievance of the petitioners is that the 2nd respondent, who is no way connected with the above mentioned civil dispute and to wreck vengeance on behalf of the accused 1 to 5 in Crime No.118 of 2019, has lodged a false complaint, suppressing the entire facts. Hence, the learned counsel would pray that the impugned FIR liable to be quashed.

3.The learned Additional Public Prosecutor (Crl.side) appearing for the official respondent would submit that Final Report is made ready on 12.09.2019 and will be filed within a period of two weeks

4.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor (Crl.side) appearing for the first respondent and perused the materials available on record. Since no adverse order is going to be passed, notice to the 2nd respondent is dispensed with.

5.Admittedly, it is case and case in counter and the learned Additional Public Prosecutor on instructions would submit that the charge sheet is made ready and will be filed within two weeks. 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, which has been echoed in the judgment dated 02.12.2019 in **Crl.A.No.1817 of 2019 in the case of M.Jayanthi vs. K.R.Meenakshi and another**. As it is a case and case in counter case, FIR has been filed in Cr.Nos.118 and 119 of 2019, ends of justice would be met, if the respondent po

6.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. Further, it is seen from the records that it is case and counter case and also charge sheet pertaining to Cr.No.119 of 2019 is made ready on 12.09.2019. In view of the above, this Court is not inclined to quash the impugned FIR in Cr.No.119 of 2019 on the file of the respondent police. However, the respondent police is directed to complete the investigation in both Crime Nos. 119 of 2019 and 118 of 2019 together and file Final Reports within a period of four weeks from the date of receipt of a copy of this order.



7. With the above direction, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vrn

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. Inspector of Police,
Pathamadai Police Station,
Pathamadai - 627 453,
Tirunelveli District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Crl.O.P(MD)No.15031 of 2020 and
Crl.MP(MD) Nos.7197 of 2020

17.12.2020

SV2 (CO)
NR (04/02/2021) 3P : 3C