



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2020

CORAM :

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

Crl.O.P(MD) No.14326 of 2020

and

Crl.M.P(MD) No.6672 of 2020

- 1.Manikandan
- 2.Selvaraj
- 3.Sugantha
- 4.Ananthi
- 5.Kailasam

... Petitioners/Accused No.2 & 5 to 8

Vs.

- 1.The State Represented by
Inspector of Police,
City Crime Branch,
Tirunelveli City.
(Crime No.19 of 2019)

...RespondentNo.1/Complainant

- 2.M.K.Ramachandran

...RespondentNo.2/Defacto Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in pursuant to the Charge sheet in CC No.722 of 2020 pending on the file of the learned Chief Judicial Magistrate Court, Tirunelveli and quash the same in so far as the petitioners are concerned.

For Petitioners : Mr.G.Thalaimutharasu
For R-1 : M/s.S.E.Veronica Vincent
Government Advocate (Crl. Side)

O R D E R

This Criminal Original Petition has been filed for quashing CC No.722 of 2020 pending on the file of the learned Chief Judicial Magistrate Court, Tirunelveli.

2. The case of the prosecution is that the defacto complainant has paid a sum of Rs.15,00,000/- to the 1st accused for arranging job at BSNL Office to his daughter and son-in-law. When the 1st accused did not arrange for job, the defacto complainant insisted to repay the above amount. Irrespective of his regular follow-ups, the 1st accused has paid only a sum of Rs.2,00,000/-. Hence, the defacto complainant lodged a complaint before the Commissioner of Police, Tirunelveli on 30.04.2019, for taking criminal action against the petitioners. Based on which, a case in Crime No.19 of 2019 has been registered against the petitioners for the alleged offences under Sections 406,420 and 506(i) IPC and



charge sheet was taken on file in CC No.722 of 2020.

3.The learned counsel for the petitioner would submit that the entire transaction was between the 1st accused and the defacto complainant and the allegations against these petitioners are vague and would not constitute offence under Sections 406, 420 and 506(i) IPC and therefore would pray for quashing the First Information Report.

4.The learned Government Advocate (Crl. Side) would state that the offences are under Sections 406, 420 and 506(II) of IPC and has strongly objected to quash the case in CC No.722 of 2020.

5.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.

6.This Court has to see whether the First Information Report and the materials collected during the course of investigation are required to be considered and its truthfulness or otherwise cannot be gone into now.

7.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.'

8.Considering the facts and circumstances of the present case, quashing of the Charge Sheet in exercise of the power under Section 482 of the Criminal Procedure Code does not arise and therefore, I am not inclined to quash the case in CC.No.722 of 2020, pending on the file of the learned Chief Judicial Magistrate Court, Tirunelveli. However, the presence of the petitioners is dispensed with and the petitioners shall appear when the learned Magistrate insist on their appearance. The learned Judge is directed to complete the trial within a period of six months from the date of



receipt of a copy of this order.

9. With the above direction, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

WEB COPY

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2020

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 Chief Judicial Magistrate Court,
Tirunelveli.

2.The Inspector of Police,
City Crime Branch,
Tirunelveli City.
(Crime No.19 of 2019)

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

+1 CC to M/s.G.THALAIMUTHUARASU, Advocate (SR-24956[F] dated 10/12/2020)

Crl.O.P(MD) No.14326 of 2020

and

Crl.M.P(MD) No.6672 of 2020

09.12.2020

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