



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

Crl.O.P.(MD).No.13744 of 2020 and
Crl.MP(MD). Nos. 6315 & 6316 of 2020

WEB COPY

1.Kensilin Joseph
2.Joseph Jeyaraj

....Petitioners/Accused 1 & 2

-Vs-

1.The State through
The Sub Inspector of Police
Thuckalay Police Station
Thuckalay
Kanyakumari District
(Crime No.550 of 2016)

...1st Respondent/Complainant

2.Homer Lal

...2nd Respondent/Defacto Complainant

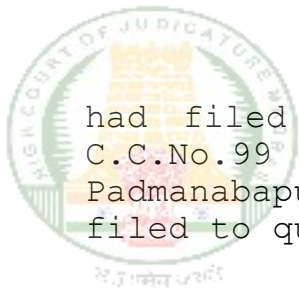
PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the impugned charge sheet in C.C.No.99 of 2018 on the file of the learned Judicial Magistrate No.I, Padmanabapuram, Kanyakumari District and to quash the same as illegal.

For Petitioners: Mr.G.Aravinthan
For R1 : Mrs.S.E.Veronica Vincent
Government Advocate (Crl.Side)

O R D E R

This Criminal Original Petition has been filed to call for the records pertaining to the impugned charge sheet in C.C.No.99 of 2018 on the file of the learned Judicial Magistrate No.I, Padmanabapuram, Kanyakumari District and to quash the same as illegal.

2.The learned counsel appearing for the petitioners reiterated the contentions set out in the original petition. The case of the prosecution is that when the second respondent sat in his house, the petitioners said to have scolded the defacto complainant with filthy language and threatened him with dire consequences by showing sword. Hence, he preferred a complaint before the respondent police. Based on the complaint, a case was registered in Crime No.550 of 2016 for the offence under Sections 294(b) and 506(ii) I.P.C. After investigation, the respondent police



had filed the final report and the same was taken on file in C.C.No.99 of 2018 by the learned Judicial Magistrate No.I, Padmanabapuram, Kanyakumari District. The present petition has been filed to quash the proceedings against the petitioners.

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. Since no adverse order is 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.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. Considering the facts and circumstance of the case, the learned Judicial Magistrate No.I, Padmanabapuram, Kanyakumari District is directed to conclude the entire trial proceedings in C.C.No. 99 of 2018, within a period of six 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 miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

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 Judicial Magistrate No.I, Padmanabapuram,
Kanyakumari District

2.The Sub Inspector of Police
Thuckalay Police Station
Thuckalay
Kanyakumari District

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

+1cc to Mr.G.Aravinthan, Advocate Sr.No.23815

Crl.O.P.(MD).No.13744 of 2020 and
Crl.MP(MD). Nos. 6315 & 6316 of 2020

02.12.2020

MJ(CO)

NR (07/01/2020) 3P : 5C