



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.12.2020

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Crl.O.P.(MD)No.15002 of 2020 and
Crl.MP(MD) Nos.7188 & 7192 of 2020

1.Shaji
2.Parameswaran
3.Sindhu @ Sindhukumar
4.Krishna Prasad
5.Shajukumar @ Sukumar Petitioners/Accused 1,2,3,4 & 8
Vs.

1.The State of Tamilnadu,
Rep by the Inspector of Police,
Puthukadai Police Station,
Puthukadai Post,
Kanyakumari District,
(In Crime No.186 of 2009) ... 1st respondent/Complainant

2.Stephenson ...2ndRespondent/Defacto
Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in CC No. 111 of 2009, on the file of the learned Judicial Magistrate Court No.II, Kuzhithurai, Kanyakumari District and quash the same as against these petitioners.

For Petitioners : Mr.V.H.S.Prathap
For R1 : Ms.S.E.Veronica Vincent,
Government Advocate (crl.side)

ORDER

This petition has been filed to quash the case in CC No. 111 of 2009, on the file of the learned Judicial Magistrate Court No.II, Kuzhithurai, Kanyakumari District against these petitioners.

2.The learned counsel for the petitioners would submit that based on the complaint given by the defacto complainant alleging that on 16.05.2009, while the defacto complainant and others were proceeding in vehicles by celebrating the victory of



DMK candidate in Parliament Lok Sabha election, the petitioners herein and 3 others wrongfully restrained, used obscene words, assaulted, threatened, a case in Crime No.186 of 2009 has been registered against the petitioners and other accused, for the offences under Sections 147, 148, 341, 294(b), 323, 324 and 506 (ii) IPC and after investigation, charge sheet has also been filed and the case was taken on file in CC No. 111 of 2009 on the file of Judicial Magistrate No.II, Kulithurai. The learned counsel further would submit that a counter FIR also been filed in Crime No.188 of 2009, for the alleged offences under Sections 147, 148, 447, 294(b), 506(ii) IPC against the 2nd respondent and 15 others, which is pending in CC No.183 of 2009, before the Judicial Magistrate No.II, Kuzhithurai. The grievance of the petitioners is that eventhough, 16 witnesses listed in the charge sheet, the trial Court has examined only 3 witnesses even after lapse of nearly 10 years. The petitioners are attending the court proceedings for the past 11 years. Due to pending of this Criminal case against the petitioners, they are not able to go abroad for employment and they are having a fair case for acquittal. Hence, the petitioner would pray for quashing the above criminal case.

3.The learned Government Advocate (Criminal Side) appearing for the official respondent would state the case has been filed against the petitioners, for the alleged offences under Sections 147, 148, 341, 294(b), 323, 324 and 506(ii) IPC and would strongly object for quashing the above case.

4.Heard the learned counsel for the petitioner 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 dispensed with.

5. It is a case and case and case in counter. 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 of the Honourable 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.**



6. Here it is a case and case in counter and there are allegations against each other. Considering the facts and circumstances of the case, this Court is not inclined to quash the case in CC No. 111 of 2009, on the file of the learned Judicial Magistrate Court No.II, Kuzhithurai, Kanyakumari District. However, considering the fact that above case is of the year 2009 and there is no progress after 2011. It is seen that after examination of PW 3, no witnesses has been produced for nearly 10 years. Hence, learned Judicial Magistrate Court No.II, Kuzhithurai, Kanyakumari District is directed to expedite the trial and dispose of both the cases in C.C.Nos.111 of 2009 & 2188 of 2009, within a period of four months 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 Petitions are closed.

Sd/-

Assistant Registrar(Writs)

// 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. The Judicial Magistrate Court No.II, Kuzhithurai, Kanyakumari District.
2. The Inspector of Police, Puthukadai Police Station, Puthukadai Post, Kanyakumari District,
3. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

Order made in
Crl.O.P. (MD) No.15002 of 2020 and
Crl.MP(MD) Nos.7188 & 7192 of 2020
17.12.2020

ES (CO)

TR(15.02.2021) 3P 4C

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