



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 23.12.2020
CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Crl.O.P.(MD)No.15501 of 2020

and

Crl.MP(MD) Nos.7561 & 7562 of 2020

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M.Rajalinga Durai ... Petitioner/3rd Accused

Vs.

1.State represented by
The Inspector of Police,
District Crime Branch,
Thoothukudi District,
(Crime No.62 of 2014) ...1st Respondent /Complainant

2.K.Sakthilingam ...2nd Respondent/Defacto Complainant

Prayer: This Criminal Original petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in connection with the impugned charge sheet in CC No.1497 of 2017, on the file of the learned Judicial Magistrate No.IV, Thoothukudi and quash the same in so far as the petitioner is concerned.

For Petitioner	: Mr.N.Neelamegam
For R1	: Ms.S.E.Veronica Vincent Government Advocate

O R D E R

This Criminal Original Petition has been filed to call for the records in connection with the impugned charge sheet in CC No.1497 of 2017, on the file of the learned Judicial Magistrate No.IV, Thoothukudi and quash the same in so far as the petitioner is concerned.

2.The learned counsel for the petitioner would submit that based on the complaint given by the 2nd respondent/defacto complainant, a case in Crime No.62 of 2014 has been registered against the petitioner and 2 others, for the offences punishable under Sections 465 and 468 IPC and after completion of investigation, charge sheet has also been laid and the case was taken on file in CC No.1497 of 2017, by the learned Judicial Magistrate No.III, Thoothukudi for the offences under Sections 465, 468, 466 and 120(b) IPC. According to the petitioner, without conducting proper enquiry/investigation, the petitioner was arrayed as 3rd accused in the present case. Hence, the learned counsel for the petitioner would pray to quash the above case.



3.The learned Additional Public Prosecutor (Crl.side) appearing for the 1st respondent would state that totally there are 3 accused in this case and the petitioner is A3. Since the allegations are serious in nature, he would vehemently object for quashing the said case.

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4.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor (Crl.side) appearing for the 1st 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.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.''

6.Here in the present case, the complainant had made specific allegations in the complaint filed against the petitioner and other accused and therefore, the grounds raised in this petition can be gone into only in a full-fledged trial. Considering the facts and circumstances of the case, this Court is not inclined to quash the proceedings in CC No.1497 of 2017, on the file of the learned Judicial Magistrate No.IV, Thoothukudi. However, the personal appearance of the petitioner before the trial Court is dispensed with, except on the date that the learned Judicial Magistrate insists his presence.

7. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CRL SIDE)

// 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.IV, Tuticorin.
2. The Chief Judicial Magistrate, Tuticorin.
- 3.The Inspector of Police,
District Crime Branch,
Thoothukudi District,
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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