



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2020

CORAM:

THE HONOURABLE **MR. JUSTICE A.D. JAGADISH CHANDIRA**

Crl.O.P. (MD) No.19681 of 2019

and

Crl.M.P. (MD) Nos. 11488 & 11489 of 2019

1. Murugesan

2. Mariammal

:Petitioners/Accused No.3&4

Vs.

1. State rep. by

The Inspector of Police,

All Women Police Station

Theni, Theni District.

(Crime No. 16 of 2019)

:1st Respondent/Complainant

2. Tamilarasi

:2nd Respondent/Defacto

Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., praying to call for the records pertaining to the impugned charge sheet in C.C.No.270 of 2019 on the file of the learned Judicial Magistrate, Theni and quash the same.

For Petitioners

: Mr.G. Karuppasamy Pandiyan

For R1

: Mr.S.Chandrasekar

Additional Public Prosecutor

For R2

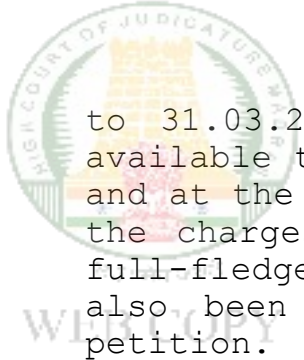
: Mr.S. Alagusundar

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.270 of 2019 on the file of the learned Judicial Magistrate, Theni as against the petitioners, for the offences under Section 506(ii) of IPC and Section 4 of TNPWH Act.

2.The learned counsel appearing for the petitioners would submit that the petitioners and the defacto complainant are relatives. He would submit that due to dispute between the petitioners and the defacto complainant a false case has been registered against the petitioners. He would also submit that the ingredients of offence under Section 506(ii) of IPC and Section 4 of TNPWH Act would not attract as against the petitioners.

3. The learned Additional Public Prosecutor would submit that there are totally 10 witnesses in the case and the same was posted



to 31.03.2020. He would further submit that there are materials available to proceed with the case as against the petitioners herein and at the threshold, the criminal proceedings cannot be quashed and the charges framed against the petitioners has to be gone into a full-fledged trial. Further, he would submit that the trial has also been commenced and hence, he prayed for dismissal of the petition.

4.This Court is of the view that all the grounds can be raised before the trial Court and there is no merit in the quash petition.

5. At this juncture, the learned counsel appearing for the petitioners prayed that the personal appearance of the petitioners before the trial Court, may be dispensed with.

6.Accepting the said submission, the presence of the petitioners before the trial Court shall be dispensed with on condition that they shall be present on the first day of appearance, on the date fixed for receiving the copies, initial questioning, reply to charges and questioning under Section 313 of Cr.P.C., and at the time of passing judgment and whenever insisted upon by the trial court.

7.The petitioners are further directed to give an undertaking in the form of affidavit that they will be duly represented by a counsel on all hearing dates and that the Counsel representing them will cross examine the prosecution witnesses on the same day they are examined in chief. The petitioners shall not dispute the identity of the witnesses. The petitioners shall appear before the Court in the event their presence is insisted by the trial judge for the purpose of identification. If the petitioners adopts any dilatorial tactics, it is open to the Trial Court to insist for their appearance and deal with the petitioners in accordance with the judgment of Supreme Court of India, ***in State of Uttar Pradesh Vs. Shambunath Singh***, reported in **2001 (4) SCC 667**.

8.Accordingly, this Criminal Original Petition dismissed. However, the learned Judicial Magistrate, Theni is directed to complete the trial and dispose the case within a period of Four Months from 31.03.2020. Consequently, Crl.M.P.(MD) No. 11489 of 2019 stands allowed and Crl.M.P.(MD) No. 11488 stands closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To

1. The Judicial Magistrate, Theni.

2. The Inspector of Police,
All Women Police Station
Theni, Theni District.

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

+1 CC to M/s.G.KARUPPASAMY PANDIYAN, Advocate (SR-8668[F] dated
27/02/2020)

Cr1.O.P. (MD) No.19681 of 2019
26.02.2020

AP(17/06/2020) 3P 5C