

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl. OP No.370 of 2021
and Crl. MP Nos.177 & 179 of 2021

1. Kalyana Rao
 2. Asok Kumar
 3. Manoj Kumar
- Petitioners/Accused Nos.1 to 3

vs.

1. State Rep. By
The Sub Inspector of Police,
Thiruthani Police Station,
Thiruthani - Post,
Thiruvallur District. Respondent/Complainant
2. Andra Banu Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Charge Sheet in C.C.No.8 of 2020 on the file of the Judicial Magistrate, Tiruttani, Thiruvallur - District in pursuance of Crime No.84 of 2018 on the file of the first respondent and quash the same.

For Petitioner : Mr. D.Veerasekharan

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor
for R1

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ORDER

This petition has been filed seeking to quash the proceedings in C.C. No.8 of 2020 pending on the file of the Judicial Magistrate, Tiruttani, Thiruvallur District.

2. The learned counsel for the petitioners brought to the notice of this Court the Registered Will dated 24.10.2013 executed by the husband of the Defacto Complainant in favour of the first petitioner and submitted that the second respondent has absolutely no right over the property and the entire case is false and it is attended with mala fides. The learned counsel further submitted that it will be an abuse of process, if the Criminal proceedings are permitted to be continued before the Court below.

3. In the considered view of this Court, the document relied upon by the learned counsel for the petitioners cannot be taken into consideration by this Court, since it is a defence material and the same cannot be relied upon by this Court while exercising its jurisdiction under Section 482 of the Code of Criminal Procedure. The law on this issue is well settled. Useful reference can be made to the judgment of the Hon'ble Supreme Court in State of Orissa Vs. Debendra Nath Padhi, reported in 2005 (1) CTC 134 and in Ravindra Kumar Madhanlal Goenka and another Vs. Rugmini Ram Raghav Spinners Pvt Ltd., reported in 2010 (3) SCC CrI 1011.

4. The grounds that have been raised by the learned counsel for the petitioners is purely factual in nature and this Court cannot go into the same in exercise of its jurisdiction under Section 482 of Cr.P.C. It is left open to the petitioners to raise these grounds before the Court below and the Court below shall consider the same on its own merits and in accordance with law.

5. The learned counsel for the petitioners requested this Court to dispense with the appearance of the petitioners and to permit them to be represented by a counsel. Taking into consideration the facts and circumstances of the case, the appearance of the first and third petitioners, who are arrayed as A1 and A3, is dispensed with and they shall be represented by a counsel who shall cross examine the witnesses on the same day, they are examined in Chief. These petitioners shall be present before the Court below at the time of questioning under Section 313 Cr.P.C and at the time of passing of the final judgement.

6. This Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings, within a period of three months from the date of receipt of a copy of this order. The trial shall be conducted on a day to day basis in accordance with the guidelines given by Hon'ble Supreme Court

reported in Vinod Kumar Vs State of Punjab [2015 (1) MLJ (Cr1) 288 SC]. If the petitioners adopts any dilatory tactics, it is open to the trial Court to insist upon the presence of the petitioners and remand them to custody as per the judgment of the Hon'ble Supreme Court in STATE OF UTTAR PRADESH VS. SHAMBHU NATH SINGH (JT 2001 (4) SC 3191). Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

jv

To

1. The Judicial Magistrate/
Tiruttani, Tiruvallur District.
2. The Sub Inspector of Police,
Thiruthani Police Station,
Thiruthani - Post,
Thiruvallur District.
3. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+1cc to M/s.D.Veerasekaran, Advocate Sr.2053

Cr1. OP No.370 of 2021
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rp[col]
srg 05/02/2021

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