



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.10.2021

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.OP.No.24513 & 25559/2016 & Crl.MP.11746,11745/2016 &
12432,12248/2016

[Video Conferencing]

1.T.Gopal
2.T.Suresh
3.L.Thimma Reddy

... Petitioners
in Crl.OP.No.24513/2016

N.Manjunath

... Petitioner
in Crl.OP.No.25559/2016

Versus

1.State represented by Sub-Inspector of Police,
Bagalur Police Station,
Krishnagiri District.
(Crime No.6/2015)

2.Vijayakumar

... Respondents
in both OPs'

Common Prayer : - Criminal Original Petition filed under
Section 482 of Cr.P.C., to call for the records relating to the
proceedings in CC.No.56/2016 on the file of the District Munsif
cum Judicial Magistrate-I, Hosur, quash the same in so far as
the Petitioner are concerned.

For Petitioners
in Crl.OP.No.24513/2016 :M/s.Divya Preathika for
Mr.Bharath Kumar

For Petitioner
in Crl.OP.No.25559/2016 :Mr.R.Murali

For R1
in both OPs :Mr.E.Raj Thilak
Additional Public Prosecutor

For R2
in both OPs :Mr.G.Prabhakaran



COMMON ORDER

- (1) CrI.OP.No.24513/2016 has been filed by A1, A2, and A3 in CC.No.56/2016 and CrI.OP.No.25559/2016 has been filed by A4 in the very same Calendar Case, which Calendar Case is now pending on the file of the learned Judicial Magistrate No.1, Hosur.
- (2) Both the petitions have been filed under Section 482 of Cr.P.C seeking interference with further progress of the said Calendar Case and to quash the same.
- (3) The said Calendar Case had been taken cognizance pursuant to a Final Report filed by the 1st respondent in Crime No.7/2015 registered under Sections 294(b), 506(i) and 379 of IPC.
- (4) As a matter of fact, the FIR had been registered only on the directions of the learned Judicial Magistrate.
- (5) A reading of the Final Report reveals that the allegation as against the petitioners herein are that they had entered into the land of the 2nd respondent herein/defacto complainant and had abused him, inviting offences under Sections 294(b), 506(i) of IPC and thereafter, they had taken away the trees and the sand in the said place inviting the offence under Section 379 of IPC.
- (6) It is informed that the defacto complainant/2nd respondent herein has unfortunately expired.
- (7) A perusal of the list of witnesses relied on by the prosecution to bring home the charges as against the petitioners herein, shows that quite apart from the 2nd respondent/defacto complainant, statements have been recorded by the Investigating Officer, from six other witnesses. All of them have not directly witnessed the offences, but they only stated that they came to know about the offences after hearing about them. Naturally, if at all they come to Court and give evidence, it would only be a hearsay evidence, which would be inadmissible in law.
- (8) The primary evidence will have to be tendered only by the 2nd respondent/defacto complainant who is no more.
- (9) It is therefore seen that it is extremely impossible on the part of the prosecution to drive home the charges or to establish charges as against the petitioners herein. When the possibility of conviction is very remote, putting the



petitioners through the ordeal of trial would only be an exercise in futility.

(10) The fact that the 2nd respondent/defacto complainant is dead, is affirmed by the learned counsel of the 2nd respondent/defacto complainant and also by the learned Additional Public Prosecutor.

(11) In view of the above reasons, I find that no effective purpose would be served in keeping on board CC.No.56/2016 on the file of the District Munsif cum Judicial Magistrate-I, Hosur and consequently, the same is quashed.

(12) In the result, the Criminal Original Petitions stand allowed. Consequently, connected miscellaneous petitions stands closed.

s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

cda

To

1.The District Munsif-cum- Judicial Magistrate-I, Hosur.

2.The Sub-Inspector of Police,
Bagalur Police Station,
Krishnagiri District.

3.The Public Prosecutor
High Court, Chennai.

+1 CC to Mr.R.Murali, Advocate sr 54293.

Cr1.OP.No.24513 & 25559/2016

RGN(CO)
SP(01/11/2021)