



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.Nos.9857 & 5958 of 2018

and

Crl.M.P.Nos.5081, 5082, 2998 & 2999 of 2018

1. Kamalesan
2. Manikandan
3. Elanthiyan
4. Thirupathi
5. Govindan
6. Sasireka @ Reka
7. Kamala
8. Harish

...Petitioners in Crl.O.P.No.9857 of 2018 /
Accused 1 to 8

1. Regina
2. Yathavaraj
3. Kanagaraj
4. Shangaran
5. Dhanasekaran
6. Durairaj
7. Balakrishnan
8. Jeganathan

...Petitioners in Crl.O.P.No.5958 of 2018 /
Accused 10 to 17

Vs.

1. The State of Tamil Nadu
Rep by its the Inspector of Police,
Bargur Police Station,
Krishnagiri District.

...Respondent / Complainant
in both Petitions

2. B.T.Chennaian

...Respondent / De-facto Complainant
in both Petitions



Common Prayer: Petitions filed under Section 482 of Cr.P.C., to call for the records pertaining to P.R.C.No.26 of 2017 on the file of the Judicial Magistrate No.1, Krishnagiri and quash the same.

WEB COPY

For Petitioners : M/s.A.Saravanan
in both Petitions

For Respondent R1 : Mr.C.E.Pratap
in both Petitions Government Advocate

For Respondent R2 : Mr.P.M.Jeyachandran
in both Petitions

O R D E R

The petitioners have filed these petitions seeking to call for the records pertaining to P.R.C.No.26 of 2017 on the file of the Judicial Magistrate No.1, Krishnagiri and quash the same.

2. The case of the prosecution is that, one Nagarajan's son namely Durairajan was working in Chennai and one Kanagaraj's daughter namely, K.Archutha was studying in Chennai and they loved each other and have eloped together. Thereafter, the petitioners herein, relatives of the said Kanagaraj, when they came to know about the said incident, they went to the house of one Chennaiyan / de-facto complainant, who is the uncle of the said Nagarajan and threatened him with dire consequences and damaged the properties belonging to him. Hence, the de-facto complainant lodged a case against the petitioners.

3. The learned counsel appearing for the petitioners submitted that, the petitioners are the relatives of the said Kanagaraj and when his daughter, said Archutha eloped with said Durairajan, the petitioners asked the said Nagarajan to send his daughter back, however, the said Nagarajan denied the same. Hence, the said Kanagaraj filed a Habeas Corpus petition in H.C.P.No1903 of 2011 and the same was disposed of. He further submitted that, the de-facto complainant lodged this false complaint against the petitioners herein on the same day, when the said Kanagaraj filed the girl missing complaint. He furthermore submitted that, the statement of the witnesses recorded under Section 161 Cr.P.C are very vague and there is no specific allegation made against the petitioners except that



their names are indicated in their statement and the witnesses are all relatives of the de-facto complainant and no statement of independent witnesses were recorded and the de-facto complainant has falsely implicated the petitioners in this case. Hence, he prays to call for the records pertaining to P.R.C.No.26 of 2017 and quash the same.

4. Mr.P.M.Jeyachandran, the learned counsel appearing for the 2nd respondent submitted that, the petitioners herein have ransacked the 2nd respondent's house and damaged the properties worth more than Rs.20,000/- and have threatened him with dire consequences. Hence, he vehemently opposed for quashing the case in P.R.C.No.26 of 2017.

5. Though several grounds have been raised by the learned counsel for petitioners 1 to 5 in CrI.O.P.No.9857 of 2018, there are sufficient materials against them which is evident from even a bare perusal of the complaint, and therefore, this Court is of the opinion that, the issue is triable and the grounds raised by the counsel for the petitioners are all factual in nature and it requires appreciation of evidence and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code.

6. However, insofar petitioners 6 to 8 in CrI.O.P.No.9857 of 2018 and the petitioners 1 to 8 in CrI.O.P.No.5958 of 2018 are concerned, there are only vague allegations made against the said petitioners and there is no specific overt act attributed against them, and therefore, this Court has no hesitation to quash the case in P.R.C.No.26 of 2017 against the said petitioners.

7. Hence, CrI.O.P.No.9857 of 2018 insofar as petitioners 1 to 5 is dismissed and petitioners 6 to 8 is allowed and the CrI.O.P.No.5958 of 2018 filed by the petitioners 1 to 8 is allowed for the reasons aforesaid. The case in P.R.C.No.26 of 2017 in respect of the petitioners 6 to 8 in CrI.O.P.No.9857 of 2018 and the petitioners 1 to 8 in CrI.O.P.No.5958 of 2018 is quashed. The petitioners 1 to 5 in CrI.O.P.No.9857 of 2018 are directed to face the trial in the court below. It is left open to the petitioners 1 to 5 in CrI.O.P.No.9857 of 2018, to raise all the grounds raised before the lower Court at the time of trial and the court below shall consider the same on its own merits and in accordance with law.



8. Accordingly, while CrI.O.P.No.9857 of 2018 is allowed in part, CrI.O.P.No.5958 of 2018 is allowed. Consequently, connected Miscellaneous petitions are closed.

WEB COPY

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

skt

To

1. The Inspector of Police,
The State of Tamil Nadu
Bargur Police Station,
Krishnagiri District.
2. The Judicial Magistrate No.1,
Krishnagiri.
3. -do through- The chief Judicial Magistrate,
Krishnagiri.
4. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

CrI.O.P.Nos.9857 & 5958 of 2018
and
CrI.M.P.Nos.5081, 5082, 2998 & 2999 of 2018

GPL[co]
NSK 09/03/2022