



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

Cr1.OP(MD)No.13384 of 2017

and

Cr1.MP.(MD)No.9017 of 2017

WEB COPY

1.A.Velusamy

2.A.Karuppaiah

3.A.Irulappan

4.K.Subramani

5.A.Bose

6.A.Mayan

7.M.Andisamy

8.K.Rajkumar

9.S.Rajesh

10.A.Andikilavan : Petitioners/Accused No 1 to 10
Vs.

1.The Inspector of Police,
Aviyur Police Station,
Aviyur Post,
Kariyapatti Taluk,
Virudhunagar District. : Respondent/Complainant

2.Karuppayee : Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to call for the records in connection with Crime No.133 of 2017, pending on the file of the first respondent and quash the same.

For Petitioners : Mr.M.Saravanakumar
For Respondents : Mr.R.Anandharaj,
Additional Public Prosecutor
for R.1
Mr.A.Haja Mohideen
for R.2

ORDER

This petition is filed by the petitioners / accused to quash the proceedings pending against them in Crime No.133 of 2017 on the
<https://hcservices.ecourts.gov.in/hcservices/>



file of the Aviyur Police Station, Kariyapatti Taluk, Virudhunagar District, which was registered at the instance of the second respondent / defacto complainant.

2. Mr.M.Saravanakumar, learned Counsel appearing for the petitioner submitted that though the alleged occurrence took place on 17.07.2017, the complaint was lodged only on 21.07.2017 and the complaint is also a vague one, without any specific overt act as against the petitioners. He would further submit that the fifth petitioner, namely, A.Bose, is working as a Over Head Tank Operator in the village and he was in his duty, throughout the day. Even then, he has been roped-in as an accused. Similarly, the eighth petitioner, namely, K.Rajkumar, who is working in Sethu Institute of Technology (SIT College), Kariyapatti and the seventh petitioner, who is studying in a Law College, are also roped-in as accused, based on a vague complaint.

3. The learned Counsel further submitted that one Arunkumar, son of the second respondent / defacto complainant, is shown as a witness for the alleged occurrence, whereas, as against the said Arunkumar, a case has been registered by the first respondent Police in Crime No.130 of 2017 and yet another CSR was also issued, with an averment that at the time of occurrence of the impugned complaint, the said Arunkumar was involved in the commission of offence.

4. Mr.R.Anandaraj, learned Additional Public Prosecutor appearing for the first respondent Police submitted that the case has been registered on 21.07.2017, whereas, the complaint was lodged even on 18.07.2017 itself, which has been registered in CSR No.64 of 2018. After preliminary enquiry, the case has been registered on 21.07.2017. Though it is averred that there is no specific overt act as against the petitioners, the case is at the stage of investigation and only during the course of investigation, the truth can be ascertained and also as to the presence of the petitioners 5, 7 & 8 in the alleged occurrence. With regard to the other ground raised by the petitioners that a case was registered against Arunkumar, S/o.the defacto complainant, who is shown as a witness in the impugned complaint, that he was involved in the commission of offence at the very same time, it can also be ascertained only during the course of investigation.

5. Mr.A.Haja Mohideen, learned Counsel appearing for the second respondent / defacto complainant made his submissions in line with the impugned complaint.

6. This Court paid it's anxious consideration to the rival submissions and to the materials placed on record.

7. No doubt, the occurrence took place on 17.07.2017. But, as rightly pointed out by the learned Additional Public Prosecutor, the complaint has been registered on 21.07.2017, the



complaint was lodged by the defacto complainant on 18.07.2017 itself, which has been registered in CSR.No.64 of 2017 and after preliminary enquiry, the same has been registered in Crime No.133 of 2017. Therefore, there is no delay in lodging the complaint.

8. Insofar as the other grounds raised by the petitioners are concerned, this Court is of the view that the same can be ascertained only during the course of the investigation by the first respondent Police and this Court, in exercise of power conferred under Section 482 of the Code of Criminal Procedure, cannot conduct a roving enquiry. Therefore, this Court is not inclined to entertain this petition to quash the First Information Report, but, directs the first respondent Police to investigate the case in a fair manner, taking into consideration of the grounds raised by the petitioners in this petition, during the course of investigation.

9. In fine, this criminal original petition stands dismissed. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1.The Inspector of Police,
Aviyur Police Station,
Aviyur Post,
Kariyapatti Taluk,
Virudhunagar District.

2. The Additional Public prosecutor,
Madurai Bench of Madras High Court,
Madurai

+1 CC to M/s.M.SARAVANA KUMAR, Advocate (SR-15930[F] dated 16/04/2021)

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09/04/2021

ES (CO)

KB(19.04.2021) 3P 4C