



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.Nos.1508 & 5623 of 2019

and

Crl.M.P.Nos.978, 979, 3191 & 3192 of 2019

1.A.Nainar Kani

2.A.Syed Abuthakir

3.Abdul Kathar ...Petitioners/Accused 1 to 3 in  
Crl.O.P.No.1508/2019

1.Jamal Mohamed

2.Rafeek

3.Cheeni Adbulla Kani

4.Meeran Mydeen

5.Abdulla

6.Mohamed Yasin ...Petitioners/Accused 1 to 6 in  
Crl.O.P.No.5623/2019

Vs.

State

1. The Inspector of Police

B-2, Esplanade Police Station

Chennai 600 001.

...1<sup>st</sup> Respondent/Complainant in both  
Crl.O.P.Nos.1508 & 5623/2019

2. A.Jamal Mohamed

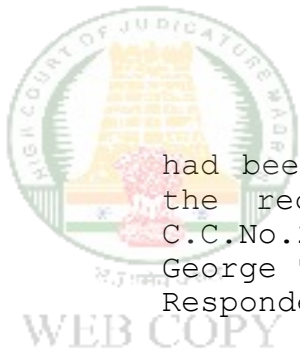
...2<sup>nd</sup> Respondent/Defacto Complainant in  
Crl.O.P.No.1508 of 2019

2. A.Nainar Kani

...2<sup>nd</sup> Respondent/Defacto Complainant in  
Crl.O.P.No.5623 of 2019

PRAYER in Crl.O.P.No.1508 of 2019: Criminal Original Petition had been filed under Section 482 of Cr.P.C, praying to call for the records and quash the case against the Petitioners in C.C.No.2123 of 2018 in the Court of VII Metropolitan Magistrate, George Town, Chennai -1, in Crime No.226 of 2018 on the file of the Respondent.

PRAYER in Crl.O.P.No.5623 of 2019: Criminal Original Petition



had been filed under Section 482 of Cr.P.C, praying to call for the records and quash the case against the Petitioners in C.C.No.2122 of 2018 in the Court of VII Metropolitan Magistrate, George Town, Chennai, in Crime No.227 of 2018 on the file of the Respondent.

For Petitioner in  
Crl.O.P.No.1508/2019: Mr.H.Navas Basha

For Petitioner in  
Crl.O.P.No.5623/2019: Mr.N.Elayaraja

For Respondent in  
both Crl.O.P.Nos. : Mr.R.Vinothraja  
Government Advocate (Crl.Side)

For Respondent in  
Crl.O.P.No.1508/2019: Mr.N.Elayaraja for R2

For Respondent in  
Crl.O.P.No.5623/2019: Mr.H.Navas Basha for R2

#### COMMON ORDER

When the cases came up for hearing on the previous occasion, they were referred to Mediation. The learned Counsel appearing for the Petitioners submitted that he is appearing for the Petitioners in Crl.O.P.No.1508 of 2019 and for the Defacto complainant in Crl.O.P.No.5623 of 2019. In Crl.O.P.No.5623 of 2019 he had not been furnished with the typed set of papers. Further, he submitted that the Mediation failed.

2. On perusal of the records, it is seen that it is a case and counter. Both the parties had approached this Court to quash each others case. Therefore, this Court had referred the matter to Mediation. In the Mediation, no amicable settlement was arrived and hence, no purpose will be served in keeping these petitions pending.

3.The Petitioners in Crl.O.P.No.1508 of 2019 and the Petitioners in Crl.O.P.No.5623 of 2019 are brothers. The Court had granted an opportunity to settle the matter amicably but, they had not settled. In the light of the Mediation report, it is seen that it is not a fit case to quash the charge sheet.

4.The learned Government Advocate (Crl.Side) submitted that both the cases had been stayed. Therefore, the Trial Court could not proceed with the case.



5. In view of the above submissions, it is seen that the Petitioners in both the cases have succeeded in delaying the trial for more than three years and they had an opportunity to settle it amicably before the Mediation, but it failed. Hence, no purpose will be served in keeping the case pending, which will protract the proceedings before the Trial Court. Therefore, both the petitions are dismissed and the trial Court shall proceed with the trial.

6. The exercising of discretionary power under Section 482 of Cr.P.C., is only to prevent the abuse of process of law. In the case on hand, both the brothers utilized this Court to abuse each other and delayed the trial before the Trial Court. This act of abuse of Court has been objected by the Hon'ble Supreme Court and advised the High Court to use the power under Section 482 of Cr.P.C. sparingly, which squarely apply to the facts of the case.

7. Accordingly, these Criminal Original Petitions are dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

dna

To

1. The VII Metropolitan Magistrate,  
George Town, Chennai.
2. The Inspector of Police  
B-2, Esplanade Police Station  
Chennai 600 001.
3. The Public Prosecutor  
High Court, Madras.

Crl.O.P.Nos.1508 & 5623 of 2019  
and Crl.M.P.Nos.978, 979, 3191 &  
3192 of 2019

AD(CO)  
RGA(25/05/2022)