



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2022

CORAM

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Cr1.OP No.16883 of 2019
& Cr1 MP.No.8503 of 2019

Murugesan

..Petitioner/Accused

Vs

M.Selvam

..Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in STC No.551 of 2018, pending on the file of the learned Judicial Magistrate I, Krishnagiri, Krishnagiri District and quash the criminal proceedings.

For Petitioner : Mr.Machaavataram for
Mr.B.Kannadasan

ORDER

This petition has been filed under Section 482 Cr.P.C., to call for the records in STC No.551 of 2018, pending on the file of the learned Judicial Magistrate I, Krishnagiri, Krishnagiri District and quash the criminal proceedings.

2.Today, when the case is taken up for hearing, the learned Counsel for the Petitioner sought an adjournment.

3.On a perusal of the records, it is found that notice had not been taken to the defacto complainant. At the time of admission of this Criminal Original Petition, interim stay was granted there by, staying the trial in STC No.551 of 2018 before the Court of learned Judicial Magistrate, Krishnagiri. After having obtained stay, the petitioner herein, who was arrayed as accused before the Court of the learned Judicial Magistrate I, Krishnagiri had successfully scuttled the trial proceedings for over three years. Therefore, it is not a fit case to be adjourned.



4. The power of quashing an FIR and criminal proceeding should be exercised sparingly by the Courts. Indeed, the High Court has the extraordinary or inherent power to prevent injustice and quash the first information report and criminal proceedings, keeping in view the guidelines laid down by the Hon'ble Supreme Court in "State of Haryana versus Bhajan Lal, reported in 1992 Supp(1) SCC 335, but the same has to be done sparingly. The normal process of the criminal trial cannot be cut short in a rather casual manner. Here it is the case of the respondent/defacto complainant that he had preferred a complaint against the petitioner before the Police concerned. They did not register the FIR, which prompted the defacto complainant to prefer a complaint to the higher police officials at Krishnagiri District. Despite their instructions also, the police did not register the FIR. Subsequently, the defacto complainant approached the Court of the learned Judicial Magistrate and filed a complaint, wherein, the police was directed to register the FIR. Even after the registration of FIR, unfortunately, the investigation was not at all conducted by the Krishnagiri Police. Therefore, the defacto complainant had no other option than to approach the Court of the learned Judicial Magistrate, Krishnagiri, regarding the subject matter of complaint. Based on the complaint and the documents filed alongwith the complaint as a sworn statement recorded by the learned Judicial Magistrate and the statement of the connected witnesses, the learned Judicial Magistrate had applied his mind and taken cognizance of the private complaint and assigned it as STC No.551 of 2018. Only on receipt of summons, the accused had come before this Court by filing the present Criminal Original Petition, seeking to quash proceedings.

5. At the time of admission of this petition, this Court had granted ad interim stay of the proceedings of the learned Judicial Magistrate and by availing the said interim order, the petitioner herein, who was arrayed as the accused had successfully delayed the trial. Taking note of the same, this Court is of the view that this is not a fit case to be adjourned, as per the guidelines issued by the Hon'ble Supreme Court in "State of Haryana v. Bhajan Lal" supra. As per guidelines issued by the Hon'ble Supreme Court, the inherent powers possessed by the High Court under Section 482 Cr.P.C. are to be exercised very carefully and with great caution so that a legitimate prosecution is not stifled. Therefore, this Court is of the view that what are all had been canvassed in this petition, can be raised by way of defence before the learned trial Court, which is subject matter of adjudication by the trial Court and certainly, not before this Court by invoking Section 482 Cr.P.C.

6. With the above observation, this petition is dismissed with a direction to the learned Judicial Magistrate 1, Krishnagiri, to dispose of the case in STC No.551 of 2018



within a period of three months from the date of receipt of a copy of this order, after providing an opportunity of personal hearing to the parties concerned. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

dn

To

The Judicial Magistrate I,
Krishnagiri, Krishnagiri District.

+1cc to Mr.E.Kannadasan, Advocate SR. No.26631

Cr1.OP No.16883 of 2019

SJ (CO)

PR (04/05/2022)