



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P (MD) Nos.2334 and 3212 of 2022

and

CRL.M.P (MD) Nos.1711, 1712, 2412 and 2413 of 2022

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Crl.O.P. (MD) No.2334 of 2022:-

1.P.Boominathan
2.R.Nagamani
3.A.Suresh Kumar

... Petitioners

Vs

1.State rep. by
The Inspector of Police,
C3, S.S.Colony Police Station,
Madurai City.
Madurai.
(Crime No.128 of 2020)

2.R.Nagalakshi

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records relating in S.C.No.303 of 2020 on the file of the learned VI Additional District and Sessions Court, Madurai and quash the same so far as the petitioners are concerned.

For Petitioner : Mr.S.Vijayakumar
For Respondents : Mr.B.Thanga Aravindh
Govt. Advocate (Crl. Side) for R1

Crl.O.P. (MD) No.3212 of 2022:-

1.Palaniraja
2.Vetrikumar

... Petitioners

Vs

1.State rep. by
The Inspector of Police,
S.S.Colony Police Station,
Madurai City.
(Crime No.128 of 2020)

2.Nagalakshi

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records relating to the proceedings in S.C.No.303 of 2020 on the file of the learned VI Additional District and Sessions Court, Madurai and quash the same as against



the petitioners.

For Petitioner : Mr.R.Senthilkumar
For Respondents : Mr.B.Thanga Aravindh
Govt. Advocate (Crl. Side) for R1

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C O M M O N O R D E R

These petitions have been filed to quash the proceedings in S.C.No.303 of 2020 on the file of the learned IV Additional District and Sessions Court, Madurai, thereby taken cognizance for the offences under Section 364(A) of IPC @ into Sections 364(A), 342, 368, 324 and 506(ii) of IPC, in Crime No.1444 of 2020, as against this petitioners.

2.The case of the prosecution is that on 12.06.2020, the defacto complainant's mother-in-law's younger sister received a call from the defacto complainant's husband. He informed that he was abducted by the accused Nos.1 to 3 and locked him in a house and there are two more persons in the said house and the accused demanded a sum of Rs.1 Lakh to release the defacto complainant's husband. Hence, the defacto complainant lodged the present complaint.

3.The learned Counsel appearing for the petitioners would submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.1444 of 2020 for the offences under Sections 364(A) of IPC @ into Sections 364(A), 342, 368, 324 and 506(ii) of IPC, as against the petitioners and the same has been taken cognizance in S.C.No.303 of 2020 on the file of the learned IV Additional District and Sessions Court, Madurai. Hence prayed for quashing of the same.

4.The learned Government Advocate (Crl. Side) would submit that the trial has been commenced and some of the witnesses have been examined in this case.

5.Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl. Side) for the first respondent.

6.It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in **Crl.A.No.579 of 2019** dated **02.04.2019** in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr.**, as follows:-

" 12.So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction



to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

7. Recently, the Hon'ble Supreme Court of India dealing in respect of the very same issue in **Crl.A.No.1572 of 2019** dated 17.10.2019 in the case of **Central Bureau of Investigation Vs. Arvind Khanna**, wherein, it has been held as follows:

"19. After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for."

8. Further the Hon'ble Supreme Court of India also held in the order dated **02.12.2019** in **Crl.A.No.1817 of 2019** in the case of **M. Jayanthi Vs. K.R. Meenakshi & anr**, as follows:

"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the



Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.

.....
13. A look at the complaint filed by the appellant would show that the appellant had incorporated the ingredients necessary for prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....."

The above judgments are squarely applicable to this case and as such, the points raised by the petitioners cannot be considered by this Court under Section 482 Cr.P.C.

9. In view of the above discussion, this Court is not inclined to quash the proceedings in S.C.No.303 of 2020, on the file of the learned IV Additional District and Sessions Court, Madurai. The petitioners are at liberty to raise all the grounds before the trial Court. However, the personal appearance of the petitioners is dispensed with and they shall be represented by a counsel after filing appropriate application. However, the petitioners shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment. The trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of this order.

10. Accordingly, these criminal original petitions are dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

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Sub Assistant Registrar(CS)



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- To
- 1.The IV Additional District and Sessions Court,
Madurai.
 2. The Inspector of Police,
C3, S.S.Colony Police Station,
Madurai City. Madurai.
 - 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.R.SENTHILKUMAR, Advocate SR.No. 12834

CRL.O.P (MD) Nos.2334 and 3212 of 2022
17.03.2022

KG(CO)
TR(30.03.2022) 5P 5C