



Crl.O.P.(MD) No.15211 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.08.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.15211 of 2022

and Crl.M.P(MD)Nos. 9962 & 9964 of 2022

1. M. Mayavan

2. M.Karuppasamy

... Petitioners/A-5 & A-6

Vs

1.The State represented by
The Inspector of Police,
Gandamanur Vilakku Police Station,
Andipatti,
Theni District.

...R-1/Complainant

2. T. Vijayakumar

...R-2/Defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertaining to the charge sheet in C.C No. 188 of 2019 pending on the file of the learned Judicial Magistrate, Andipatti, Theni district in Crime no. 253 of 2017 dated 10.09.2017 for an alleged offences under sections 147, 294(b), 323, 427 & 506(i) of IPC.

For petitioners : Mr.T.Thirumurugan

For R-1 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



Crl.O.P.(MD) No.15211 of 2022

ORDER

WEB COPY

This Criminal Original Petition has been filed to quash the charge sheet in C.C No.188 of 2019 pending on the file of the learned Judicial Magistrate, Andipatti, Theni District, in Crime No.253 of 2017 dated 10.09.2017 for an alleged offences under sections 147, 294(b), 323, 427 & 506(i) of IPC, as against the petitioners.

2. Heard the learned counsel appearing for the petitioners and Mr.E.Antony Sahaya Prabahar, learned Additional Public Prosecutor appearing for the respondent police.

3. The learned counsel appearing for the petitioners submitted that these petitioners were arrayed as A-5 & A-6 in C.C.No.188 of 2019 on the file of the learned Judicial Magistrate, Andipatti, Theni District. He further submitted that all the witnesses in their statement stated only common allegations and not specific statement about these petitioners. One witness Vijayakumar in his second statement stated that A-8, A-12 & A-13 were impleaded to add strength to the prosecution case and therefore, these petitioners have also impleaded falsely to add strength to the prosecution



Crl.O.P.(MD) No.15211 of 2022

case. There is no material evidences against these petitioners. Hence, the criminal proceedings against the petitioners is liable to be quashed and pleaded to quash.

4. The learned Additional Public Prosecutor appearing for the respondent police submitted that, admittedly, there is general allegations are available against these petitioners and all the witnesses have mentioned the name of these petitioners and stated that these petitioners have also participated in the alleged occurrence. Therefore, Whether there is any specific over tact against these petitioners and involvement have to be decided before the trial Court by light of the prosecution witnesses. He further submitted that, before commencing of trial, this criminal proceedings cannot be quashed and the disputed fact of participation and specific over tact about these petitioners have been decided after examining the prosecution witnesses, before that it cannot be adjudicated for considering them for quashing. He pleaded to dismiss the petition.

5. It is seen from the records that these petitioners are A-5 & A-6 in C.C.No.188 of 2019 on the file of the learned Judicial Magistrate, Andipatti,



Crl.O.P.(MD) No.15211 of 2022

Theni District. These petitioners are prosecuted by the respondent police for having committed for offences punishable under Sections 147, 294(b), 323, 427 & 506(i) of IPC. On perusal of 161(3) of Cr.P.C. statement of the witnesses and other records, they have stated that during the occurrence the accused persons have caused damage to the property, during the temple festival. Therefore, it is to be adjudicated after examining the evidences about the specific overt act done by these petitioners. Before commencing of trial, it cannot be adjudicated that the factual dispute about the participation of these petitioners in the occurrence.

6. At this stage, it is not proper to quash the impugned criminal proceedings before commencing of trial. Therefore, this Court finds no merits in the petition and the same is liable to be dismissed.

7. At this juncture, the learned counsel appearing for the petitioners submitted that the first petitioner is being aged about 65 years and hence, his personal appearance may be dispensed with before the trial Court. Considering the age of the first petitioner/A-5, the personal is dispensed with before the trial Court, on condition that he shall appear before the trial



Crl.O.P.(MD) No.15211 of 2022

Court on all further proceedings whenever his presence is required before the trial Court.

8. Accordingly, this Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petitions are also closed.

25.08.2022

Internet: Yes./No

Index: Yes/no

ksa

To

1. The Judicial Magistrate Court,
Andipatti,
Theni District.
2. The Inspector of Police,
Gandamanur Vilakku Police Station,
Andipatti,
Theni District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD) No.15211 of 2022

V.SIVAGNANAM, J.

ksa

ORDER IN
CRL.O.P (MD) No.15211 of 2022

25.08.2022