



Crl.O.P.(MD) No.16196 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.09.2022

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.16196 of 2022

and

CRL.M.P.(MD)Nos.10732 and 10734 of 2022

1. Ayyadurai
2. Maragatham
3. Pitchaiyee
4. Chellam
5. Namusu
6. Karuppasamy
7. Udaiyammai

...Petitioners

VS

1. State represented by its
The Inspector of Police
All Women Police Station,
Sivagangai District
Sivagangai
(Crime No.9 of 2007)

2. Kartheeswari

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records relating to the Impugned Charge Sheet in C.C.No.182 of 2019 on the file of the learned Judicial Magistrate Court No.I, cum Additional Mahila Court, Sivagangai and to quash the same.



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For Petitioners : Mr.S.Pugalendhi
For R-1 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.182 of 2019 on the file of the learned Judicial Magistrate No.I, cum Additional Mahila Court, Sivagangai

2. The learned Counsel for the Petitioner would submit that the case is pending from the year 2019 without any progress. Hence he seeks direction from this Court to dispose of the case.

3. The learned Additional Public Prosecutor objected the line of arguments of the learned Counsel for the Petitioner stating that the petition has been filed to quash the charge sheet. It is the submission of the learned Additional Public Prosecutor that charge sheet was filed before the learned Judicial Magistrate No.I Sivagangai in the year 2007. The trial also commenced and most of the prosecution witnesses have been examined.



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The Petitioner herein who is arrayed as accused did not opt to cross examine the witness then and there when the witnesses were readily available before the learned Judicial Magistrate No.I, Sivagangai. Subsequently on the direction of the Hon'ble Supreme Court Additional Mahila Court has been constituted in all the districts of Tamil Nadu. Accordingly Additional Mahila Court, Magisterial Level was constituted in Sivagangai and the case was transferred from the file of the learned Judicial Magistrate No.I, Sivagangai to the Additional Mahila Court, Sivagangai at the part heard stage. As per the own submission of the learned Counsel for the Petitioner, PW.1 had been examined and the Investigating Officer had also been examined. In view of the same, the learned Additional Public Prosecutor seeks to dismiss the case as the petition is not maintainable as per the reported ruling of the Hon'ble Supreme Court in the case of ***State of Haryana vs.Ch.Bhajan Lal (AIR) 1992 SC 604*** , wherein guidelines has been issued in exercising extraordinary powers under Section 482 of Cr.P.C by the Hon'ble High Court. The learned Additional Public Prosecutor also submits that PW.5 is the brother of the defacto complainant who is residing at Singapore. He had also deposed as PW.5 and he is likely to arrive in India in the first week of November 2022 and he is said to leave India by the



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end of November 2022. Therefore the Petitioner can chose to cross examine him in the month of November 2022 itself.

3. Considering the fact that chief examination had been completed upto PW.10 and in the course of trial PW.2,3,4,6 and 8 reported dead and also considering the fact that the witnesses had deposed on behalf of the prosecution and the Petitioner herein had not chosen to cross examine witnesses when they were available and some of the witnesses are reported dead after deposing in favour of the prosecution. Therefore the Petitioner cannot seek defence when he was afforded opportunity to cross examine witness, now the witnesses are dead. Therefore no prejudice will be caused to him.

4. Therefore this case is liable to be dismissed, since it does not satisfy the parameter laid down by the Hon'ble Supreme Court in the ***State of Haryana vs.Ch.Bhajan Lal*** reported in ***(AIR) 1992 SC 604*** and ***Vinod Kumar vs. State of Punjab [2015(1) MLJ (crl) 288]***.



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5. Accordingly the Criminal Original Petition stands dismissed.

Consequently connected miscellaneous Petitions are closed. The learned Judicial Magistrate can pass appropriate orders regarding exemption of petitioner as necessity arises and it is for the learned Magistrate to consider and pass orders.

20.09.2022

Internet: Yes./No

Index: Yes/no

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To

1. The Additional Mahila Court, Sivagangai

2. The Inspector of Police
All Women Police Station,
Sivagangai District
Sivagangai

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

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