



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.19094 of 2021

and

Crl.M.P.(MD).No.10608 of 2021

Shanmuga Sankar @ Shanumugam ...Petitioner/ Accused No.6

Vs.

1.The Sub Inspector of Police,
SS Colony Police Station,
Madurai City,
In Crime No.1129/2019 ...1st Respondent/ Complainant

2.K.P.Mani Kumar
Sub Inspector of Police,
SS Colony Police Station,
Madurai. ...2nd Respondent/ Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records relating to the FIR in Crime No.1129 of 2019 dated 24.10.2019 on the file of the first respondent quash the same.

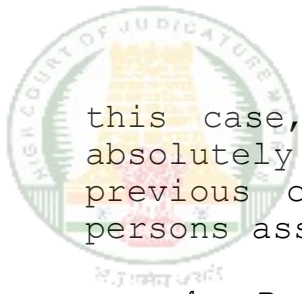
For Petitioner : Mr.Siva Balan
For Mr.R.Bibin Jenifar
For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

ORDER

Heard the learned counsel for the petitioner and learned Additional Government Pleader for the respondents.

2. The petitioner is figuring as A6 in Crime No.1129 of 2019 registered on the file of the first respondent for the offence under Section 399 and 402 IPC.

3. According to the prosecution, when the police party were on the usual round on 24.10.2019 at around 4.30 a.m., accused were found under the Thinathanthi bridge and were planning to commit dacoity. It has been already held in Crl.O.P.(MD).No.18337 of 2021 Mathivannn Vs The Inspectof of Police, that to sustain the offence under Section 399 of IPC, a higher threshold will have to be met. In



this case, except the statement of the patrol police, there is absolutely no other material. The petitioner is also not having any previous case. Even the police also had only found a group of persons assembled during night hours under a bridge.

4. Based on the confession statement of the first accused Meenakshi Sundaram, the petitioner has been roped in. But on the strength of the confession statement of the co-accused, the petitioner cannot be convicted. Therefore, the first respondent is directed to file a final report leaving out the petitioner herein. The Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Sub Inspector of Police,
SS Colony Police Station,
Madurai City,

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

+1 CC to M/s.R.JENIFAR BIBIN, Advocate (SR-3767[F] dated 02/02/2022)

Crl.O.P. (MD)No.19094 of 2021
01.02.2022

sn
MS/16.02.2022/2P.4C