



Crl.O.P.(MD) No.18084 of 2022

ORDER

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This Criminal Original Petition has been filed to quash the charge sheet in C.C. No.272 of 2018 pending on the file of the learned Judicial Magistrate No.V, Madurai

2. The learned Counsel for the Petitioners would submit that the Petitioners who are accused are arrayed as A3 and A4.

3. The learned Counsel for the Petitioners invited the attention of this Court to the contents of the First Information Report, 161(3)Cr.P.C statement of the defacto Complainant and other witnesses. He would also submit that the Petitioners herein are son of A1. Also he would submit that the Petitioners had not sent any documents and therefore it is the submission of the learned Counsel for the Petitioner that there is no overt act incriminating the Petitioners herein for the alleged offence. Therefore he seeks to quash the final report taken on file in C.C. No.272 of 2018 pending on the file of the learned Judicial Magistrate No.V, Madurai



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4. The learned Additional Public Prosecutor objected to the lines of arguments of the learned Counsel for the Petitioners stating that there are totally five accused in this case and the Petitioners herein are arrayed as A3 and A4. The case is of the year 2016 and the C.C is of the year 2018. Since Non Bailable Warrant is pending against A1, the trial Court is unable to proceed further. He would also submit that there are sufficient materials available to implicate the Petitioners herein as accused. The Petitioners herein promised the defacto Complainant that they will settle the dues and thereby took time but had not settled any amount. Hence he opposed to quash the proceedings.

5. In the light of the objected raised by the learned Additional Public Prosecutor, the Petitioners seeking to quash the proceedings is found unacceptable. When case is pending before the trial Court and A1 who is none other than the father of the Petitioners absconding, the Petitioners are directed to cooperate with the pending trial. The learned Judicial Magistrate No.V, Madurai is directed to instruct the Inspector of Police, S.S.Colony Police Station, Madurai District to execute the warrant. The Commissioner of Police, Madurai District is directed to form special team and execute the



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warrant in trial pending cases so that the accused are brought before the Court and the Court shall proceed further with the trial.

6. The learned Judicial Magistrate No.V, Madurai is directed that if accused is produced on warrant he shall detain him prison till the case is disposed of. If bail already granted to the accused shall be cancelled as per the reported ruling of the Hon'ble Supreme Court in the case of ***P.K.Shaji vs. State of Kerala*** reported in ***[(2005)AIR SCW 5560]***. The Inspector of Police, S.S.Colony Police Station is directed to execute the warrant and cooperate with the Court by promptly producing the witnesses as per the list of witnesses in the charge sheet. Independent witnesses shall be produced on the same day. The learned Judicial Magistrate is directed to examine the independent witnesses in a day or two on day to day basis. In spite of examining the witnesses one by one on day to day basis, 3 or 4 independent witnesses shall be examined on the same day. Witnesses shall be cross examined by the learned Counsel for the accused on the same day, when they are examined in chief. The request of the learned Counsel appearing for the accused to recall the witnesses on their whims and fancies shall not be encouraged by the learned Judicial Magistrate as per the



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reported decision in **2015 (1) MLJ (Crl) 288 (SC) [Vinod Kumar -vs- State of Punjab]**

7. The learned Judicial Magistrate No.V, Madurai is directed to dispose of the case within a reasonable time as expeditiously as possible.

8. With the above direction, the Criminal Original Petition is disposed of. Consequently connected miscellaneous petitions are closed.

08.11.2022

Internet: Yes./No

Index: Yes/no

aav

To

1. The Judicial Magistrate No.V, Madurai

2. The Inspector of Police
S.S.Colony Police Station
Madurai City, Madurai District

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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