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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.12.2021

Delivered on : 07.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.19914 of 2018

and

Crl.M.P.(MD)Nos.9132 & 9133 of 2018

R.Varatharajan ... Petitioner/Accused No.1
vs.

1.The State represented by
The Inspector of Police,
Manapparai Police Station,
Manapparai,
Trichy District. ... Respondent/Complainant

2.V.P.Sankar ... Respondent/Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C, to call for the records of the final report in connection with C.C.No.106 of 2018 on the file of the learned Judicial Magistrate, Manapparai, Trichy District against the petitioner pending disposal of the above quash petition.

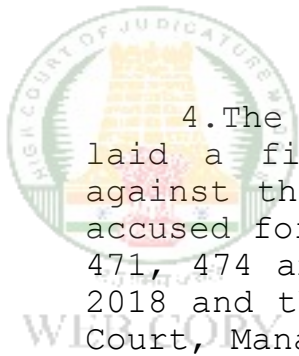
For Petitioner : Mr.N.Prahalad Ravi
For Respondents : Mr.R.Sivakumar
Government Advocate (Crl. side) for R1
Mr.T.Balakrishnan for R2

O R D E R

This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking orders to call for the records relating to the case in C.C.No.106 of 2018 pending on the file of the Judicial Magistrate Court, Manapparai, Trichy District and quash the same.

2.The petitioner is the first accused in C.C.No.106 of 2018 on the file of the Judicial Magistrate Court, Manapparai.

3.On the basis of the complaint lodged by the second respondent, FIR came to be registered in Crime No.464 of 2014 against five persons including the petitioner dated 18.11.2014 for the alleged offences under Sections 120B, 379, 420, 468, 471, 474 and 34 IPC.

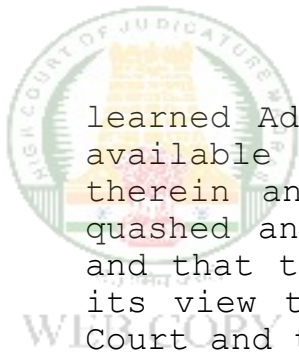


4.The first respondent, after completing the investigation, has laid a final report under Section 173 Cr.P.C. dated 30.03.2018 against the same five persons arraying the petitioner as the first accused for the alleged offences under Sections 120B, 379, 420, 468, 471, 474 and 34 IPC and the case was taken on file in C.C.No.106 of 2018 and the same is pending on the file of the Judicial Magistrate Court, Manapparai.

5.The case of the prosecution is that the accused are the office bearers of Manapparai Naidu Mahajana Sangam, that they have failed to file the accounts and the annual reports before the Registrar of the Society, that they had also misappropriated the amount collected at Poigaimalai Perumal Temple for Purattasi festival, that though the accused were removed from their posts as per the resolution passed by the General Council of the Sangam on 07.01.2013, they have conspired together and had stolen the account books, minute books and other records of the said Sangam and created and fabricated false documents as if they were again elected as the office bearers and that they had also forged the signatures of the deceased past President Rajasekaran and the other members.

6.The case of the petitioner is that he is the founder of the said Manapparai Naidu Mahajana Sangam and has started for the welfare of the Naidu people in the year 2010, that one Veerachamy was elected as the President and the petitioner was elected as the Secretary at that time, that the petitioner was not the office bearer of the Society thereafter and subsequently, on 10.06.2013, the petitioner was elected as President of the said Sangam, that Form VII was presented before the concerned authority and the same was accepted, that in the meanwhile, the defacto complainant has lodged the complaint alleging as if he was elected as a Secretary of the Society and the petitioner and the others had manipulated the records and forged the signatures of one Rajasekaran and the other persons and submitted Form VII before the authority, that the defacto complainant is not at all the Secretary and he lodged a false complaint as a counter blast to the complaint lodged by the petitioner against one Veeramani and Santha, who had allegedly sold the property of the Sangam and swindled the huge amount in Crime No.8 of 2014 on the file of the first respondent, that the said Veeramani and Santha had instigated the defacto complainant to file the above complaint to compel the petitioner to enter into compromise and that the first respondent has no jurisdiction to register the case against the petitioner and for laying the charge sheet.

7.It is not in dispute that the other accused Nos.2 to 5 have filed a similar petition in Crl.O.P.(MD)No.19695 of 2019 under Section 482 Cr.P.C. to call for the records pertaining to the charge sheet in C.C.No.106 of 2018 and quash the same. A learned Judge of this Court, vide order dated 13.01.2020, has dismissed the criminal



learned Additional Public Prosecutor that there are some materials available to proceed with the case as against the petitioners therein and at the threshold, the criminal proceedings cannot be quashed and the charges have to be gone into a full-fledged trial and that the trial has already been commenced, this Court expressed its view that all the grounds can only be raised before the trial Court and there was no merit in the quash petition.

8.The Hon'ble Supreme Court in ***Dhruvaram Murlidhar Sonar vs. The State of Maharashtra and others*** reported in **2019 18 SCC 191**, after considering the decision of the Hon'ble Supreme Court in ***State of Haryana and others vs. Bhajan Lal and others*** reported in **1995 Supp (1) SCC 335**, has specifically held that exercise of powers under Section 482 Cr.P.C. is an exception and not a rule and that inherent jurisdiction under Section 482 Cr.P.C. though wide has to be exercised sparingly, carefully and with caution, only when such exercise is justified by tests specifically laid down in Section itself.

9.It is settled law that the High Court is not required to enter into and/or consider the merits of the allegations in detail, which as such are required to be considered at the time of trial and that if a *prima facie* case is made out disclosing commission of an offence alleged against the accused, the Court cannot quashed a criminal proceeding.

10.In the case on hand, the allegations and the averments raised by the petitioner cannot be gone into in the petition filed under Section 482 Cr.P.C. and it is matter for trial.

11.As rightly observed by the learned Judge of this Court, in the criminal original petition filed by the other accused, all the grounds can only be raised before the trial Court, hence, this Court concludes the above petition is devoid of merits and the same is liable to be dismissed.

12.It is not in dispute that the petitioner herein is shown to be aged 80 years in 2018. In Crl.O.P.(MD)No.19695 of 2019, the presence of the petitioners before the trial Court was ordered to be dispensed with but, on certain conditions.

13.It is not in dispute that already seven witnesses have been examined before the trial Court.

14.Considering the above and also the age of the petitioner, this Court is also inclined to dispense the appearance of the petitioner before the trial Court but, at the same time, the petitioner is directed to appear on the date of questioning under Section 313 Cr.P.C. and at the time of judgment and for the hearings as specifically directed by the trial Court.



15.With the above direction, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition in Crl.M.P.(MD)No.9133 of 2018 is allowed and Crl.M.P.(MD)No.9132 of 2018 is closed.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

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Sub Assistant Registrar(CS)

CSM

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 Judicial Magistrate,
Manapparai.

2.The Inspector of Police,
Manapparai Police Station,
Manapparai, Trichy District.

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

+1 CC to M/s.B.PRAHALAD RAVI, Advocate (SR-5098[F]
dated 09/02/2022)

+1 CC to M/s.T.BALAKRISHNAN, Advocate (SR-4702[F] dated 08/02/2022)

order made in
Crl.O.P. (MD)No.19914 of 2018
and
Crl.M.P. (MD)Nos.9132 & 9133 of 2018
07.02.2022

ARK (CO)

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