



CrI.O.P.(MD) No.20123 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 25.11.2022

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THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CrI.O.P (MD) No.20123 of 2022

and

CrI.M.P.(MD) No.13920 of 2022

1.A.Maria Sence

2.M.Robinson

...Petitioners

vs

1.The Inspector of Police,
Thuckalay Police Station,
Kanyakumari.
Crime No.314 of 2016

2.Y.Dharmaraj

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to direct the Learned Judicial Magistrate No.I, Padmanabhapuram, Kanyakumari to keep the proceedings pending in CC.No.396 of 2022 on the file of Learned Judicial Magistrate No.I, Padmanabhapuram, Kanyakumari in Cr.No.314 of 2016 dated 13.04.2016 on the file of the Respondent No.1 in abeyance till the commencing of trial Crime No.728 of 2016 dated 11.04.2014 on the file of the first Respondent after filing the Charge Sheet before above said Court and both the cases may be tried and heard jointly.



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For Petitioners : Mr.T.Lajapathi Roy
For R1 : Mr.R.Sivakumar
Government Advocate (Crl.side)

ORDER

This Criminal Original Petition had been filed to direct the learned Judicial Magistrate No.I, Padmanabhapuram, Kanyakumari to keep the proceedings pending in C.C.No.396 of 2022 in Cr.No.314 of 2016 dated 13.04.2016 on the file of the first Respondent in abeyance till the commencing of trial in Crime No.728 of 2016 dated 11.04.2014 on the file of the first Respondent after filing the Charge Sheet before the said Court.

2.It is the submission of the learned Counsel for the Petitioners that the Petitioners had been arrayed as accused in Crime No.314 of 2016. The Petitioners had preferred a complaint against the persons, who had attacked them, based on which the FIR was not registered. Therefore, the Petitioners had approached the learned Judicial Magistrate No.I, Padmanabhapuram.

3.Based on the direction of the learned Judicial Magistrate No.I, Padmanabhapuram, FIR in Crime No.728 of 2016 was registered. But the



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investigation had not proceeded. The learned Counsel for the Petitioners would further submit that in Crime No.314 of 2016, investigation had been closed and the learned Judicial Magistrate No.I, Padmanabhapuram had issued summons in CC.No.396 of 2022. Therefore, the Petitioners had approached this Court seeking direction that till the Petitioners' complaint is taken up for hearing, the learned Judicial Magistrate No.I, Padmanabhapuram shall not proceed with the trial in CC.No.396 of 2022.

4.The learned Government Advocate (Crl.side) for the first Respondent would submit that the FIR registered based on the direction of the learned Judicial Magistrate No.I, Padmanabhapuram was dropped as mistake of fact. RCS notice was also served. The Petitioners have to approach the learned Judicial Magistrate No.I, Padmanabhapuram by filing protest petition in Crime No.728 of 2016.

5.In the light of the above, the learned Judicial Magistrate No.I, Padmanabhapuram is directed to consider the protest petition to be filed by the Petitioners in Crime No.728 of 2016. Till the protest petition is enquired and appropriate order is passed in Crime No.728 of 2016, the learned



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SATHI KUMAR SUKUMARA KURUP, J.

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Judicial Magistrate No.I, Padmanabhapuram is directed not to proceed with the trial proceedings in C.C.No.396 of 2022.

6.With the above directions, this Criminal Original Petition is disposed of.

Internet: Yes/No

25.11.2022

Index: Yes/No

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To

- 1.The Judicial Magistrate No.I,
Padmanabhapuram,
Kanyakumari.
- 2.The Inspector of Police,
Thuckalay Police Station,
Kanyakumari.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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