



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 29/04/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.OP (MD) No.19231 of 2019

and

Crl.MP (MD) Nos.11286 and 11287 of 2019

Rose Merlin

: Petitioner/5th Accused

Vs.

1.The Inspector of Police,
Asaripallam Police Station,
Kannyakumari District,
(Crime No.321 of 2014).

: 1st Respondent/Complainant

2.Vargeesh

: 2nd Respondent/Defacto-
Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records relating to the case in CC No.25 of 2015 on the file of the Judicial Magistrate No.1, Nagercoil and quash the same.

For Petitioner : Mr.K.P.Narayanakumar

For 1st Respondent : Mr.SS.Madhavan

Government Advocate (Criminal side)

For 2nd Respondent : Died

O R D E R

The petition has been filed seeking quashment of the case in CC No.25 of 2015 on the file of the Judicial Magistrate No.1, Nagercoil.

2.The case of the prosecution in brief:-

The de-facto complainant lodged a complaint stating that he is the owner of the Lorry bearing registration No.TN-74-M-2135. In that lorry, one Arul Gnanadasaiya @ Rajan was working as driver. The lorry was parked in front of his house by the above said driver and the key was handed over to him. On 14/09/2014 at about 6.00 am, the lorry was found missing. Based upon the complaint given by the de-facto complainant, a case in Crime No.321 of 2014 was registered for



the offence under section 379 IPC. After completing the formalities of investigation, final report was filed and it was taken cognizance in CC 25 of 2015 by the Judicial Magistrate No.1, Nagercoil.

3. Seeking quashment of the same, this petition has been filed by the petitioner/A5 stating that (*) Deleted a case has been falsely foisted upon her. On 04.11.2014, the police people trespassed into the house, caused assault, harassed, illegally detained and misbehaved with her. Over the occurrence, a case in Crime No.492 of 2015 was registered against the police officials for the offences under sections 147, 363, 342, 506(ii), 454 and 380 IPC. To wreck vengeance only, this case has been filed solely on the alleged confession statement of the co-accused.

4. Heard both sides.

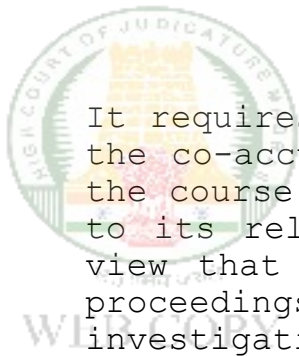
5. The learned counsel appearing for the petitioner would straightaway rely upon the judgment of the Hon'ble Supreme Court in the case of **Surinder Kumar Khanna Vs. Intelligence Officer, Director of Revenue Intelligence [(2018)3 SCC (Cri) 567]** for the purpose of argument that the confession statement of the co-accused alone cannot be a matter for recording the conviction. The idea behind the argument is that except the confession statement of the husband of this petitioner, no other material or ground is available or collected during the course of investigation by the police to rope this petitioner also into the offence.

(*) 6. The entire CD file has been called for and perused. From the perusal of the entire CD file, the co-accused has stated that this petitioner also instigated him to commit the offence of theft and robbery and in fact, she also accompanied him, at one stage for committing theft of the vehicle, which is involved in this matter.

7. The learned counsel appearing for the petitioner would further submit that the petitioner is working as a teacher and she is noway involved in the alleged crime. (*) Deleted According to the petitioner, to wreck vengeance, a false confession statement has been created implicating this petitioner also into the occurrence.

8. No doubt, the Hon'ble Supreme Court has gone in detail about the evidentiary value of the confession statement of the co-accused. It is time and again held that unless the confession statement of the co-accused is corroborated in material particulars, no conviction can be recorded. But at the same time, it must also be seen that these things cannot be taken into account, while exercising the jurisdiction under Section 482 Cr.P.C.

9. The defence of the petitioner may be true considering her position in the society. But that alone cannot be a deciding factor.



It requires proper evidence and trial. So the evidentiary of the co-accused and the documents and the materials collected during the course of investigation cannot be a matter consideration now as to its reliability or evidentially value. I am of the considered view that the this is not a fittest case to quash the criminal proceedings against the petitioner and it requires thorough investigation and the trial process has to be undertaken to its logical conclusion.

10. In the result, this criminal original petition is **dismissed**. However considering the fact that the petitioner is working as a teacher, her personal appearance is dispensed with. Within 15 days from the date of receipt of a copy of this order, the petitioner must appear before the trial court and file an undertaking affidavit that she will appear as and when required by the court and she must ensure that she is properly represented by an Advocate. Further, it is a case of the year 2015, the trial court is directed to expedite the trial process and complete the same within a period of five months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (ADMN-I)

(*) Amended as per the order of this court dated 28.06.2022 made in CRL.OP(MD).No.19231/2019

Sd/-

Assistant Registrar (ADMN-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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 be substituted the order already despatched on 07/06/2022

To,

1. The Judicial Magistrate No.1,
Nagercoil.



2.The Inspector of Police,
Asaripallam Police Station,
Kanniyakumari District,

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

Copy to :

The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.P.NARAYANAKUMAR, Advocate (SR-23098[F] dated
02/05/2022)

Crl.OP(MD)No.19231 of 2019
29.04.2022

USK/06.06.2022/4P/6C

KB(24.08.2022) 4P 6C