



WEB COPY



Criminal Original Petition No.18864 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Criminal Original Petition No.18864 of 2023

and

Crl.M.P.Nos.12630 & 12631 of 2023

1.P.Rangarajan
S/o.Pitchandi

2.Senthamizhselvi
W/o.Venkatesan

...Petitioners

Vs

1.State by the Inspector of Police,
All Women Police Station,
Thirukoilur, Kallakurichi District.
Crime No.26 of 2008

2.Devi
W/o.Bharathirajan

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to call for the records in C.C.No.1612 of 2008 on the file of Judicial Magistrate, Thirukoilur and quash the same.

For Petitioners : Mr.C.Munusamy

For Respondents : Mr.A.Gopinath
Government Advocate [Crl.side] [R1]



ORDER

This Criminal Original Petition has been filed challenging the summons issued by the Court below to the petitioners directing them to attend the Court for answering the charges.

2. Heard Mr.C.Munusamy, learned counsel for petitioners and Mr.A.Gopinath, learned Government Advocate [Crl.side] appearing for first respondent.

3. The petitioners were added as accused persons [A3 and A4] in exercise of powers u/s.319 Cr.P.C. Since the petitioners were added as accused without giving them an opportunity, the same became a subject matter of challenge before this Court in Crl.O.P.No.27216 of 2016. This petition was allowed by this Court by order dated 13.7.2022 and the operative portion of the order is extracted hereunder:

"8. In view of the law settled by the Hon'ble Apex Court regarding addition of an accused under Section 319 of Cr.P.C., necessary opportunity of being heard should have been issued by the learned Magistrate. Admittedly, the learned Magistrate has not followed the above procedures laid down by the Hon'ble Apex Court before adding the petitioner herein as A3 and A4.

9. Accordingly, the impugned order dated 17.06.2014 of the



learned Magistrate is hereby set aside and the same is modified that the learned Magistrate shall issue notice to A3 and A4 as to the effect that why they should not be added as accused persons and thereafter, he could proceed with the Calendar Case in accordance with law."

4. The grievance of the petitioners is that the petitioners should have been given an opportunity before adding them as accused in this case, whereas the Court below has straightaway issued summons to the petitioners by treating them as accused persons. Aggrieved by the same, the present Criminal Original Petition has been filed before this Court.

5. The summons issued to the petitioners is hereby quashed. The petitioners shall appear before the Court below on 01.09.2023 and file their objections with regard to adding the petitioners as A3 and A4. The objections shall be first considered by the Court below and ultimately, if the petitioners are added as accused persons after considering the objections, the Court below can proceed further in accordance with law. That stage has not reached in this case and the issuance of summons to the petitioners by treating them as accused was not in line with the order passed by this Court

N.ANAND VENKATESH, J



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in CrI.O.P.No.27216 of 2016. The Court below shall consider the objections made by the petitioners and shall pass orders on its own merits and in accordance with law within a period of four (4) weeks from 01.09.2023.

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

23.08.2023

Note to office: Issue order copy by 28.08.2023

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

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To

1.The Judicial Magistrate,
Thirukoilur.

2.The Inspector of Police,
All Women Police Station,
Thirukoilur, Kallakurichi District.
Crime No.26 of 2008

3.The Public Prosecutor,
High Court, Madras.

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