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Crl.O.P.No.34043 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2023

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P. No.34043 of 2019

&

Crl. M.P.Nos.18812 & 18813 of 2019

1. Omana S Nair

2. S.Sreenath

... Petitioners

Vs.

1.State Rep by.,
The Inspector of Police, (Crime)
G-7, Chetpet Police Station,
Kilpauk, Chennai – 31.

2.S.Chandran

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the entire records of the C.C.No.8498 of 2017 on the file of the 2nd Metropolitan Magistrate, Egmore, Chennai and quash the same so far as the petitioners are concerned.



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For Petitioners : Mr. R.Raja Rathinam
Senior Counsel
for Mr. K.Jayaraman

For Respondent 1 : Mr. A.Damodaran
Additional Public Prosecutor

For Respondent 2 : No Appearance.

ORDER

This petition is filed to quash the final report filed for the offences under Section 452, 342, 294 (b), 324, 354, 355, 386, 397 and 506 (ii) of IPC.

2. The petitioners are A9 and A10.

3. It is alleged by the prosecution that the petitioners along with eight others had conspired and had committed extortion and other offences on the defacto complainant.



WEB COPY 4. (i) Mr. R.Raja Rathinam, learned senior counsel for the petitioners contended that the petitioners are not involved in the alleged offences. The learned senior counsel would submit that the petitioners were originally employed with the defacto complainant and are sought to be implicated falsely. The prosecution had added the petitioners as accused, two months after registering the FIR, projecting as if the petitioners were part of the conspiracy said to have been taken place on 19.08.2016. The learned senior counsel would submit that the two witnesses relied upon by the prosecution cannot be believed and the said statements were recorded belatedly.

(ii) The learned senior counsel would further submit that the Cell Phone by which the private act of the defacto complainant was allegedly filmed was not produced before the Court; that the prosecution has not furnished the Forensic Science Laboratory (FSL) report pertaining to the video contained in the said Cell Phone. Hence, he prayed for quashing of the final report.



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5. The learned Additional Public Prosecutor would submit that the charges have been framed and the defacto complainant have already been examined as L.W.1. He would further submit that the points raised by the petitioners are factual in nature and can be adjudicated only before the Trial Court.

6. It is no doubt true that if the Cell Phone is not produced before the Trial Court the prosecution cannot establish the alleged offences. It is for the prosecution to establish the offences in the manner known to law. The proceedings cannot be quashed on that ground alone. Further, the points raised by the petitioners are factual in nature and has to be adjudicated only before the Trial Court. Hence, this Court is not inclined to entertain this petition.

7. With the above observation, the quash petition is dismissed. Consequently, the connected miscellaneous petitions are closed. No costs.



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WEB COPY 8. It is open to the petitioners to raise all the contentions raised by them in this quash petition before the Trial Court.

9. The appearance of the petitioners before the learned II Metropolitan Magistrate, Egmore, Chennai, is dispensed with, unless the learned II Metropolitan Magistrate, Egmore, Chennai, deems their presence necessary for the progress of the Trial.

02.06.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No

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To

The Inspector of Police, (Crime)
G-7, Chetpet Police Station,
Kilpauk, Chennai – 31.



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SUNDER MOHAN. J,

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