



Crl.O.P.(MD).No.286 of 2019

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 14.02.2023

DELIVERED ON : 20.03.2023

CORAM

THE HON'BLE MR. JUSTICE G.ILANGO VAN

Crl.O.P.(MD).No.286 of 2019

and Crl.M.P.(MD).Nos.120 & 121 of 2019

1.Selvaraj

2.Raman

3.Murugaraj

4.Kumar

5.Chinnakaruppan

... Petitioners/Accused No.1 to 5

Vs.

1.State rep. by

The Inspector of Police,
Annavaasal Police Station,
Pudukkottai District.

(In Crime No.150/2016)

... 1st Respondent/Complainant

2.Ramaiya Kurukkal

... 2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the Charge Sheet in S.C.No.24 of 2018 on the file of the learned Principal District and Sessions Judge, Pudukkottai and quash the same.

For Petitioners : Mr.G.Mathavan

For Respondents : Mr.M.Sakthi Kumar for R1
Government Advocate (Crl. Side)
R2 – Died



Crl.O.P.(MD).No.286 of 2019

WEB COPY

ORDER

This Criminal Original Petition has been filed to quash the Charge Sheet in S.C.No.24 of 2018 on the file of the learned Principal District and Sessions Judge, Pudukkottai.

2.The case of the prosecution in brief:

The defacto complainant is the Priest in Pillaiyar Kovil, Kilapatti, Kumaramalai Murugan Temple and Sivan Kovil, etc. For the purpose of performing the Pooja, the property in patta No.250 measuring about 18.55 acres were endowed. Out of the income derived from the property, they were performing poojas. One Periyasamy and other members tress-passed into the property and caused trouble. Therefore, a suit was filed against the Periyasamy and others, before the District Munsif Court, Pudukkottai, which was decreed in their favour. Appeal was filed before the Fast Track Court, Pudukkottai, in A.S.No.15 of 2011, that was also decreed in favour of the defacto complainant. Later compromise was undertaken, in which, the above said Periysamy and others are agreed to remove the encroachment. But, later failed. Because of the above said issue, there was enmity between them. On 21.08.2016



Crl.O.P.(MD).No.286 of 2019

at about 11.00 a.m., the defacto complainant hired his JCB vehicle for cleaning purpose. At that time, the accused person, came to the property, caused damage to the JCB vehicle and also criminally intimidated the defacto complainant and others. On the basis of the above said complaint, case was registered and after completing the investigation, final report was filed and was also taken cognizance in P.R.C.No.13 of 2017, that was later, committed to the Sessions Court and numbered as S.C.No.24 of 2018.

3. Seeking quashment of the same, this petition has been filed by all the accused persons on the ground that it is purely a civil transaction between the parties and even the defacto complainant has given a statement that he gave exaggeration with regard to stealing of Hundial money. A contradictory statement have been given by the defacto complainant. There is a delay in lodging the complaint and no proper valuation has been made with regard to the damage.

4. Heard both sides. Records perused.



Crl.O.P.(MD).No.286 of 2019

WEB COPY

5.The second respondent is the defacto complainant, who was reported to be dead and no legal heirs were brought on record. From the narration portion in the preamble, it is seen that the defacto complainant and others, claimed right over the property mentioned in the complaint, as if it was endowed for the purpose of performing the pooja to several temples. In respect of the above said, no document is available on record, except the statement of the defacto complainant and others. Even during the course of investigation, it appears that no such document has been recovered by the Investigating Officer. Whether, it is a maanibam land or not, can not be the matter for consideration by this Court in the petition, since it has been stated by the complainant that in respect of the above said issue, suit was filed in District Munsif Court, which ended in their favour, later filed appeal by the accused in A.S.No.15 of 2011 and that also ended against them. So, the above said issue can be the matter for consideration by the trial.

6.A specific complaint to the effect that the accused persons came to the place of occurrence and caused damages with JCB vehicle, which was engaged by them for the purpose of cleaning the site. Whether there



Crl.O.P.(MD).No.286 of 2019

was any damage to the vehicle or not also be the matter for consideration by this Court in this petition. Since it is only a factual issue. The contention on the part of the petitioner that no proper damage assessment enquiry was undertaken by the Investigating Officer, can, if at all be taken advantage by the accused person before the trial Court and not certainly before this Court. Whether the person, who issued the damage certificate is competent, also cannot be decided in this petition. Saravanan, who was doing the auto glass fitting work, given the statement that he made the repair work and fixed new glasses to the above said JCB vehicle bearing registration No.TN 55 AX 3499; It is worth about Rs.9,500/-. Whether he is a competent person as I mentioned earlier can be the matter for consideration only by the trial Court. *Prima facie* materials have been concluded to show that a damage was caused to the above said vehicle and that was also repaired by the above said person and has also given a statement are enough to negative the prayer that has been made by the petitioners.

7.The next contention is that contrary statement has been given by Witness No.1 with regard to alleged stealing of money from the temple



Crl.O.P.(MD).No.286 of 2019

Hundiya. No doubt there are some contradictory statements by him in the complaint and as well as during the course of investigation. Now, he is also no more and dead. So any statement given by him contradicting himself with regard to the earlier statement cannot be a point for consideration either by the trial Court or by this Court at this stage. Moreover, mere contradiction in the statements will not entitle the accused to seek quashment of the criminal proceedings. Contradictory statement must be brought on record as per proper procedure during the course of trial. So the statement recorded under Section 161 Cr.P.C. is not substantial piece of evidence either before the trial Court or before this Court. It has to be proved in proper and legal manner. So merely on the basis of the contradictory statements also, the prosecution cannot be quashed.

8. In view of the above said discussion, I find no merit in this petition. However, considering the issue between the defacto complainant and the petitioner herein and the case is of the year 2018, there shall be a direction to the trial court namely the Principal District and Sessions Judge, Pudukkottai, to expedite the trial process in S.C.No.



Crl.O.P.(MD).No.286 of 2019

24 of 2018 and complete the same within a period of **five** months from the date of receipt of a copy of this order.

9.This criminal original petition is **dismissed** with the above directions. Consequently, connected miscellaneous petitions are closed.

20.03.2023

Index : Yes/No
Internet : Yes/No
TM

To

- 1.The Principal District and Sessions Judge, Pudukkottai.
- 2.The Inspector of Police,
Annavasal Police Station,
Pudukkottai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CrI.O.P.(MD).No.286 of 2019

G.ILANGO VAN,J.

TM

CrI.O.P.(MD).No.286 of 2019

20.03.2023