



Crl.O.P.(MD) No.17267 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: **27.09.2023**

CORAM:

THE HONOURABLE DR.JUSTICE **D.NAGARJUN**

Crl.O.P.(MD) No.17267 of 2023

and

Crl.M.P.(MD)Nos.13694 and 13695 of 2023

1.Kaladevi @ Kalaiselvi

2.Solairajan

... Petitioners / Accused Nos.1 &2

Vs.

1.The Inspector of Police
Sivagangai Police Station,
Sivagangai District.
Crime No.502/2021

... 1st Respondent / Complainant

2.Senthilkumar

...2nd Respondent / Defacto
Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records of the impugned proceedings in C.C.No.653 of 2022 on the file of the learned Judicial Magistrate No.1, Sivagangai District and quash the same as illegal.

For Petitioners : Mr.K.Jeyamohan

For R1 : Mr.SS.Madhavan

Government Advocate (Crl.Side)



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ORDER

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This petition is filed by the petitioners / Accused Nos.1 and 2, seeking quashment of the charge sheet in C.C.No.653 of 2022 on the file of the learned Judicial Magistrate No.I, Sivagangai District for the offences under Sections 294(b), 448, 506(1) and 427 IPC.

2.It is submitted by the learned counsel for the petitioners that the 1st petitioner and the defacto complainant are the neighbours and there is a dispute in respect of pathway between both of them. On account of which, false case has been foisted against the petitioners. It is further submitted that the 1st petitioner is a cancer patient and a certificate and discharge summary to that extent have also been annexed in this petition and submitted further that it is very difficult for the 1st petitioner to appear before the trial Court during the course of the trial. It is further submitted that if this Court is not inclined to consider for quashment of charge sheet, sought for a direction to dispense with the presence of the 1st petitioner, who is a cancer patient.

3.The learned Government Advocate (Crl.Side) for the 1st respondent submitted that as per the statements of the witnesses, there is a material against all the petitioners. The truth or otherwise of the statements of the witnesses



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will be decided only during the course of the trial before the trial Court and the questions raised by the learned counsel for the petitioners cannot be decided in this petition under Section 482 Cr.P.C.

4.Considering the above submissions, this Criminal Original Petition is disposed of, directing the trial Court to dispose of C.C.No.653 of 2022 on the file of the learned Judicial Magistrate No.I, Sivagangai District within a period of six months from the date of receipt of a copy of this order.

5.Further, during the course of the trial, the presence of the 1st petitioner, who has been suffering from cancer, is dispensed with. However, the trial Court is at liberty to direct the 1st petitioner to appear for answering the charges and 313 of Cr.P.C., examination and at the time of passing judgment and for any other similar purposes. Consequently, connected miscellaneous petitions are closed.

27.09.2023

NCC : Yes / No
Internet : Yes / No
Index : Yes / No

Yuva



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DR.D.NAGARJUN. J.

Yuva

To

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

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