



WEB COPY



Crl.O.P.(MD)No.3047 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

Crl.O.P.(MD) No.3047 of 2022

Crl.M.P(MD).No.2270 of 2022

Joy Benjamin

... Petitioner

Vs.

1.The State Rep. By
The Inspector of Police,
City Crime Branch,
Tirunelveli City.

2.Sam Robert

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records pertaining to the case in C.C.No.622 of 2019 on the file of the learned Judicial Magistrate No.I, Tirunelveli, Tirunelveli District and quash the same as against the petitioner.

For petitioner

: M/s.Moushica

for Mr.P.Saravanan

For R1

: Mr.P.Kottai Chamy

Government Advocate (Crl.Side)



WEB COPY



CrI.O.P.(MD)No.3047 of 2022

ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.622 of 2019 on the file of the learned Judicial Magistrate No.I, Tirunelveli, Tirunelveli District against the petitioner herein.

2. The case of the prosecution is that the petitioner along with the other accused persons received a sum of Rs.27,96,000/- from the defacto complainant for construction work. After receiving the payment, no work has been commenced with by the petitioner. Hence, the defacto complainant/second respondent preferred a complaint to the first respondent police and the Police officials registered FIR in Crime No.21 of 2017 for the offence punishable under Sections 406, 418 and 420 IPC. After conducting the investigation, the respondent Police filed a charge sheet before the learned Judicial Magistrate No.I, Tirunelveli District, and the the learned Judicial Magistrate has taken cognizance in C.C.No. 622 of 2019.

3. The learned counsel appearing for the petitioner would submit that a false case has been foisted against the petitioner and there is no specific allegation as against the petitioner.



WEB COPY

4. The learned Government Advocate (Crl. Side) would submit that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioner have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5. In the above circumstances, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioner, if she is subjected to due trial as sufficient opportunity would be given to the petitioner to put forth her defence. The petitioner cannot be let by quashing the charges framed against her as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against her. Useful reference in this regard can be made to the decision of the Hon'ble Apex Court in

State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)

6. For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.622 of 2019, pending on the file of the learned Judicial Magistrate No.I, Tirunelveli. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.



CrI.O.P.(MD)No.3047 of 2022

7. The learned counsel appearing for the petitioner would submit that this Court may consider to dispense with the personal appearance of the petitioner before the court below. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for her appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioner is necessary, the trial court, at its wisdom, shall direct her appearance on those days.

28.02.2024

Index : Yes/No
Internet : Yes/No
tta

To

1. The Judicial Magistrate No.I, Tirunelveli.
2. The Inspector of Police,
City Crime Branch,
Tirunelveli City.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CrI.O.P.(MD)No.3047 of 2022

M.DHANDAPANI, J.

tta

CrI.O.P.(MD)No.3047 of 2022

28.02.2024