



CrI.O.P.(MD)No.5169 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.04.2024

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

CrI.O.P.(MD)No.5169 of 2024 and 5214 of 2024
CrI.MP(MD) No.4072 of 2024 & 4102 of 2024

Selvakumar

... Petitioner in
CrI OP(MD) No.5169/2024

Saravana Selvan

... Petitioner in
CrI OP(MD) No.5214/2024

Vs.

The Inspector of Police,
Malli Police Station,
Virudhunagar District.
(Crime No.135/2019)

...Respondent in both CrI.OPs

Common Prayer : Criminal Original Petitions filed under Section 482 of the Code of Criminal Procedure, to set aside the impugned docket order dated 27.03.2024 passed in CC No.582 of 2020 on the file of the learned Judicial Magistrate Court No.II, Srilvilliputhur as illegal and to allow these petitions.

For Petitioner : Mr.C.Jeyaprakash
For Respondent : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor
(in CrI.OP(MD) No.5169 of 2024)



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For Petitioner : Mr.C.Jeyaprakash
For Respondent : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor
(in Crl.OP(MD) No.5214 of 2024)

COMMON ORDER

These Criminal Original Petitions are filed as against the order passed by the learned Judicial Magistrate No.II, Srilvilliputhur in CC No.582 of 2020, dated 27.03.2024.

2.The petitioners are the accused 1 & 2 in Crime No.135 of 2019. The case of the prosecution is that the defacto complainant is working as a Human Resource Manager in a Private Company. The first accused/petitioner in Crl.OP(MD)No.5169 of 2024 is an employee of that private company. The second accused/ petitioner in Crl.OP(MD)No. 5214 of 2024 is a supplier of various tapes and stickers to the Company, where, the first accused is working. During 2014, the second accused has supplied tapes and stretch film to the defacto complainant's company through the first accused and in the year 2019 it was found that though the defacto complainant has ordered 65 meter Bopp gum tape and 10 micron stretch film, the second accused has supplied only 50 meter Bopp



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gum tape and 23/29 micron stretch film. The further case of the prosecution is that though the first accused was aware of the same, by receiving commission from the second accused, the first accused has defrauded the defacto complainant's company. Therefore, the Defacto complainant has lodged a complaint before the Malli Police Station, Virudhunagar District and the same was registered in Crime No.135 of 2019 for the offence under Sections 120B, 403, 406 and 420 IPC. After investigation, the respondent has filed a final report and the same was taken on file in CC No.582 of 2020 by the learned Judicial Magistrate No.II, Srivilliputhur. After trial, the case was posted for judgment on 27.03.2024. However, on 27.03.2024, the learned Judicial Magistrate directed the prosecution to measure the tape marked as MO.1 and posted the case for further arguments on 04.04.2024. Challenging the same, the petitioners/accused 1 & 2 are before this Court.

3.The learned counsel for the petitioners submit that as per the prosecution case, the second accused has supplied 50 meter Bopp gum tape instead of 65 meter Bopp gum tape. According to the petitioners, the material object, which has been obtained by the Investigating Agency is purchased from another shop. The petitioners



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who are the accused 1 & 2 have challenged the impugned docket order on the ground that this order has been passed by the learned Judicial Magistrate after written arguments have been heard/submitted and it is only to fill up the lacuna. Therefore, the impugned order has to be set aside.

4. Mr.E.Antony Sahaya Prabahar learned Additional Public Prosecutor takes notice for the respondent and submits that the Magistrate is having every power to ascertain the genuineness of the material objects, which have been produced before the Court. Therefore, there is no need to interfere with the impugned order.

5.This Court considered the rival submissions made on either side.

6.The petitioners are the accused 1 & 2 in CC No.582 of 2020 on the file of the Judicial Magistrate Court No.II, Srivilliputhur. The grievance of the petitioners is that after posting the case for Judgment on 27.03.2024, the learned Judicial Magistrate has issued a direction to the prosecution to measure the tapes, which were marked as



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Material objects. It is the discretion of the Magistrate to verify the genuineness/measurement of the material objects before pronouncing the Judgment. The petitioners can raise all their grounds before the trial Court during the further arguments. The petitioners are at liberty to demonstrate their case before the trial Court.

7.In view of the above, this Court is not inclined to interfere with the impugned order passed by the learned Judicial Magistrate No.II, Srilvilliputhur in CC No.582 of 2020, dated 27.03.2024. Accordingly, these Criminal Original petitions are dismissed. Consequently, connected Miscellaneous petitions are closed.

03.04.2024

NCC : Yes/No
Index : Yes/No
Internet:Yes
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To
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- 1.The Inspector of Police,
Malli Police Station,
Virudhunagar District.
(Crime No.135/2019).
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI,J

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Common Order made in
Crl.O.P.(MD)No.5169 of 2024 and 5214 of 2024
Crl.MP(MD) No.4072 of 2024 & 4102 of 2024

03.04.2024