

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 20.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR**CRL.OP.(MD)No.9324 of 2017****and****CrI.M.P(MD)Nos.6325 and 6326 of 2017**

1.Mohan

2.Vasudevarajan

3.Mohan

4.Fakkir Mohammed

5.Riyazudeen

...Petitioners/Accused No.1 to 5

Vs.

1.The Inspector of Police,
Paramakudi Town Police Station,
Paramakudi,
Ramanathapuram District
(In Crime No.323 of 2012)

...Respondent/Complainant

2.V.Udhayakumar

...Respondent/De-facto complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying this Court to call for the entire records pertaining to the charge sheet in C.C.No.149 of 2013, on the file of Judicial Magistrate, Paramakudi, Ramanathapuram District and to quash the same as illegal.

For Petitioners : Mr.D.Senthil
For Respondent-1 : Mr.K.Anbarasan,
Govt.Advocate(Crl.Side)

ORDER

This Criminal Original Petition is filed to quash the charge-sheet in C.C.No.149 of 2013, on the file of Judicial Magistrate, Paramakudi, Ramanathapuram District

2.Heard the submissions of Mr.D.Senthil, learned counsel for the petitioners and Mr.K.Anbarasan, learned Government Advocate (Crl.Side) appearing for the first respondent/State and perused

the materials placed before this Court.

3.The second respondent lodged a complaint before the first respondent-Police as against the petitioners and others and the same was registered in Crime No.323 of 2012, for the alleged offence under Sections 147, 148, 452, 323, 363, 294(b) and 506(ii) of IPC against the Petitioners and others. After completion of the investigation, the first respondent Police filed a charge-sheet against the Petitioners which was taken on file in C.C.No.149 of 2013, on the file of Judicial Magistrate, Paramakudi, Ramanathapuram District. The petitioners have therefore filed the above Criminal Original petition to quash the C.C.No.149 of 2013, on the file of the above said Court.

4.The learned counsel for the Petitioners would submit that a charge-sheet in this case fall within the first category of case in **Bhajanlal case(1992 Supp (1) SCC 335)**.It is therefore submitted that the allegations in the complaint do not satisfy the requirements. One another contention of the learned counsel for the Petitioners is that the names of accused No.6 and 7 in the complaint were deleted in the charge-sheet and the charge-sheet was only filed against other accused. It is stated that absolutely there is no reason for deletion of the names of accused No.6 and 7 in the complaint. Other grounds are made alleging mala-fides and by stating that the criminal case is nothing but a counter-blast to the complaint of these accused.

5.The learned Government Advocate(Crl.Side) produced the Deletion Report, whereby two of the accused namely accused No.6 and 7 were deleted from the charge sheet after checking out the alibi, the accused No.6 and 7 names were deleted on the basis of said evidence. The case of the Petitioners is that the Petitioners are not involved in the offence, cannot be decided on the basis of self-serving statements of the Petitioners. Though it was contended that this case fall within the first category, from the reading of the FIR and charge-sheet, it is very clear that the involvement of the Petitioners is specifically seen both in the FIR as well as in the charge-sheet. In such circumstances, the above contention of the learned counsel for the Petitioners cannot be appreciated.

6.The only other ground is about the deletion of accused No.6 and 7 in the FIR. First of all, accused No.6 and 7 are working in Regional Transport Office. It was also the tendency of persons to make Government servants as parties making serious allegations against them so as to sensitize the issue. In the present case, it is very clear that accused No.6 and 7 are standing in a different footing and the allegations found in the FIR as against accused No.6 and 7 may be false. The Petitioners against whom specific allegations were made in the FIR and charge sheet cannot seek to quash the proceedings mainly because some of the co-



accused as per the FIR were deleted at the time of filing of charge-sheet. This may be a good ground in the defense.

7. Hence, the Criminal Original petition is dismissed. Consequently, connected Miscellaneous Petitions are dismissed. The learned counsel for the Petitioners requested this Court to dispense with the personal appearance of the petitioners before the Court below. Considering the nature of allegations levelled against them and considering the above facts and circumstances, the personal appearance of the petitioners is dispensed with unless and until their presence is specifically required by the Court.

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Paramakudi, Ramanathapuram District.
 2. The Inspector of Police,
Paramakudi Town Police Station,
Paramakudi,
Ramanathapuram District
 3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- +1 CC to M/s.D.SENTHIL, Advocate, SR No. 66654.

VSN

PSM/SV/SAR2/28.07.2017/3P/5C

ORDER MADE IN
CRL.OP. (MD) No.9324 of 2017
and
Crl.M.P(MD) Nos.6325 and 6326 of 2017
20.07.2017