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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2021

CORAM:

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

CRL.O.P.NO.5541 OF 2017

&

CRL.M.P.NO.4136 OF 2017

1. Abi
2. Karthi

... Petitioners

Vs

The State Rep. By
The Inspector of Police,
Kolathur Police Station,
Salem District.

... Respondent

PRAYER:-

Petition filed under section 482 of Code of Criminal Procedure to call for the entire records in S.C.No:79/14 on the file of the Additional Sessions Judge cum Sub-ordinate Judge, Mettur and quash the same.

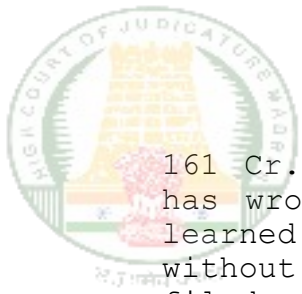
For Petitioners : M/S.M.Mariappan

For Respondent : Mr.L.Baskaran
Government Advocate
(Crl. Side)

O R D E R

This Criminal Original Petition has been filed, seeking to quash the S.C.No.79/2014 on the file of the Additional Sessions Judge cum Subordinate Judge, Mettur.

2. The learned counsel appearing for the petitioners would submit that the petitioners were not at all involved in the incident and their names were also not shown in the FIR. However, it has been shown wrongly in the charge sheet, and in



161 Cr.P.C. Statement, the Village Administrative Officer (VAO) has wrongly stated the name of the petitioners. Therefore, the learned counsel submitted that the charge sheet was filed without any material evidence and since the charge sheet was filed wrongly in the names of the petitioners, the proceedings in SC No.79 of 2014 are liable to be quashed.

3. Per contra, Mr.Baskaran, learned Government Advocate (Crl.Side) submits that in the FIR, it has been clearly stated that some unknown people had damaged the ration shop of the defacto complainant and during the investigation, the Village Administrative Officer (VAO) has stated that the petitioners were involved in the incident and they had caused the damage. After completion of the investigation, charge sheet has been filed and the same has been taken on file by the Sessions Court, and therefore, he submits that at this stage, the proceedings in SC cannot be quashed, and further, there are sufficient materials available to proceed against the petitioners. Hence, he prayed to dismiss the petition.

4. Heard the the learned counsel appearing for the parties and perused the materials available on record.

5. The case of the prosecution is that the petitioner along with other persons had damaged the public property (i.e) ration shop. The complaint was filed by the Secretary of Fair Price Shop, wherein, he stated that some unknown persons entered the ration shop and set fire and caused damage. Further, the VAO was examined and recorded his 161 Cr.P.C. statement, wherein, he has categorically stated that the petitioners and other accused were also involved in the incident. On the basis of the complaint and the statement of VAO only, the respondent/'Police appeared to have filed the charge sheet against the petitioners. Therefore, the materials available on record would prima facie show that the petitioners were alleged to have been involved in the incident.

6. Therefore, at this stage, this Court cannot interfere and let the petitioners scot-free, and whether the petitioners were involved in the incident and caused damage, can be proved only after a full fledged trial.

7. It is made clear that this Court has not expressed any opinion on merits of this case. The petitioners are at liberty to raise their defence and prove their innocence before the Court after being subjected to trial. The Court below is directed to proceed with the trial and dispose of the case, without being influenced by any of the observations made by this Court in this order.



8. For the reasons stated above, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

jd/sd

To

1. The Additional Sessions Judge
cum Sub-ordinate Judge,
Mettur.
2. The Inspector of Police
Kolathur Police Station
Salem District.
3. The Public Prosecutor,
High Court, Madras.

CRL.O.P.NO.5541 OF 2017 &
CRL.M.P.NO.4136 OF 2017

AJS (CO)
PBS/22/11/2021