



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2021

CORAM :

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

Crl.O.P.(MD)No.954 of 2021

and

Crl.M.P(MD)Nos.437 & 439 of 2021

WEB COPY

- 1.Sathiya @ Sathiya Narayanan
- 2.Guruprabu
- 3.Vivek
- 4.Nagaprabu
- 5.Ajith Kumar

... Petitioners/Accused No.17,29 to 32

Vs.

- 1.The State Rep. by
The Inspector of Police
Appan Thirupathi Police Station,
Madurai District.
(Crime No.89 of 2017)

.. 1st Respondent / Complainant

- 2.Murugesan .. 2nd Respondent / Defacto Complainant

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records in P.R.C.No.14 of 2017 on the file of Judicial Magistrate Court No.V, Madurai and quash the same as against the present petitioners.

For Petitioner : Mr.R.Gandhi
For 1st Respondent : Mr.A.Robinson,
Government Advocate (Criminal Side)

ORDER

The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973, seeking to quash the final report in P.R.C.No.14 of 2017 on the file of Judicial Magistrate Court No.V, Madurai, as against the present petitioners.

2.The case of the prosecution is that based on the complaint lodged by the Supervisor of TASMACH Shop situated in Nayakanpatti Village, a case was registered in Crime No.89 of 2017 of Appan Thirupathi Police Station, Madurai District, for the offences punishable under Sections 147, 148, 341, 353 of Indian Penal Code and Section 4 of Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992, against one Baskaran and 27 others. The First Information Report reveals that when the Supervisor of the TASMACH Shop, on 18.04.2017, was about to open the shop, the Teachers and Students of GMS-MAVMM Polytechnic College, prevented him from doing so and damaged the thatched shed and the fence of the TASMACH



Shop. The first respondent police, after conducting investigation, laid a charge sheet in PRC.No.14 of 2017 on the file of the learned Judicial Magistrate No.V, Madurai.

3.The learned counsel for the petitioner would submit that a Division Bench of this Court in W.P.(MD) No.16180 of 2019, by its order dated 19.09.2019, directed the authorities concerned to act in public interest and also directed them not to shift the TASMAR bar, near the college.

4.On an earlier occasion, in Crl.OP.(MD) No.2840 of 2020, a Single Judge of this Court, quashed the entire proceedings against some of the accused, by order, dated 20.02.2020. The observations made by the learned Single Judge is extracted hereunder :

"10.Perusal of the records shows that except omnibus allegation made against all of the the accused, no specific averment made against any of the petitioners in particular. Omnibus statement may not constitute the offence against each and every individual person, since the criminal trial is contemplated on the basis of the definite allegations of the commission of the offence by every individual person. The criminal trial is contemplated only on definite allegation, *prima facie*, establishing commission of offence by each accused which has to be proved by leading acceptable evidence in the course of trial. In this case, specific evidence is lacking. Further, the details of the valuation of the loss stated to have been committed is also not clear.

11. Apart from the above, taking into consideration the facts of the case that the petitioners have agitated for a public cause, this Court is of the opinion that allowing the further proceedings against the petitioners to be continued is nothing but abuse of process of law and thereby, the charge sheet in PRC No. 14 of 2017 on the file of the learned Judicial Magistrate No.V, Madurai is liable to be quashed.

12. With the above observations, the Criminal Original Petition stands allowed and the charge sheet in PRC No. 14 of 2017 on the file of the learned Judicial Magistrate No.V, Madurai is quashed. Consequently, connected miscellaneous petitions are closed.

5.The same view was taken by another learned Single Judge of this Court in Crl.OP(MD) No12673 of 2020, by order dated 09.11.2020, which read as follows :

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"10.Perusal of the records shows that except omnibus allegation made against all of the accused, no specific averment made against any of the petitioners in particular. Omnibus statement may not constitute the offence against each and every individual person, since the criminal trial is contemplated on the basis of the definite allegations of the commission of the offence by every individual person. The criminal trial is contemplated only on definite allegation, *prima facie*, establishing commission of offence by each accused which has to be proved by leading acceptable evidence in the course of trial. In this case, specific evidence is lacking. Further, the details of the valuation of the loss stated to have been committed is also not clear.

11. Apart from the above, taking into consideration the facts of the case that the petitioners have agitated for a public cause, this Court is of the opinion that allowing the further proceedings against the petitioners to be continued is nothing but abuse of process of law and thereby, the charge sheet in P.R.C.No. 14 of 2017 on the file of the learned Judicial Magistrate No.V, Madurai is liable to be quashed.

12. With the above observations, the Criminal Original Petition stands allowed and the charge sheet in P.R.C. No. 14 of 2017 on the file of the learned Judicial Magistrate No.V, Madurai is quashed. Consequently, connected miscellaneous petitions are closed.

6.Applying the same analogy, the present Criminal Original Petition is allowed and the entire proceedings in P.R.C. No. 14 of 2017 on the file of the learned Judicial Magistrate No.V, Madurai, stands quashed, as far as the present petitioners are concerned. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

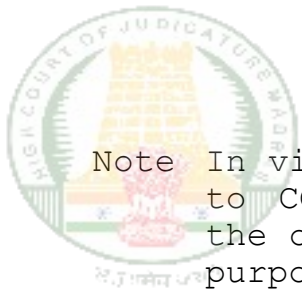
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/ /2021

Sub Assistant Registrar(CS)

Rm

<https://hcservices.ecourts.gov.in/hcservices/>



Note In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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

+1 CC to Mr.R.GANDHI, Advocate (SR-2476[F] dated 29/01/2021)

Crl.O.P. (MD)No.954 of 2021

25.01.2021

VB (10.02.2021) 4P 5C