



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE **G. ILANGO VAN**

Crl.O.P. (MD) No.14895 of 2021

and

Crl.M.P. (MD) Nos.7929 and 7931 of 2021

1.Vijay @ Vijayakumar

2.Balamurugan

3.Darwin

4.Ahamed Sha

... Petitioners/Accused 1,3 to 5

Vs.

1.The State through
The Inspector of Police,
Kottar Police Station,
Kottar, Nagercoil,
Kanyakumari District.
Crime No.322 of 2014

2.Mohana Ayer

3.Sankar
Kannan

...Respondents/Complainants

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the case in S.C.No.10 of 2019 on the file of the Chief Judicial Magistrate, Nagercoil, Kanyakumari District and quash the same as illegal.

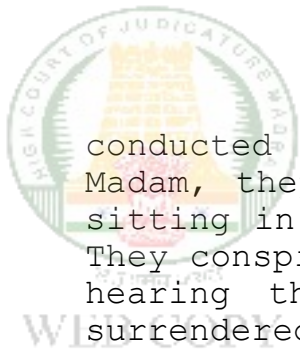
For Petitioners
For R1

:Mr.N.Pragalathan
:Mr.RMS.Sethuraman
Additional Public Prosecutor

ORDER

This petition is filed seeking quashment of S.C.No.10 of 2019 on the file of the learned Chief Judicial Magistrate, Nagercoil, Kanyakumari District.

2.The case of the prosecution is that on 10.04.2014 at about 02.30 am, when the defacto complainant along with his team
<https://hcservices.ecourts.gov.in/hcservices/>



conducted search in the limits of Kottar Police Station at Anathai Madam, they saw the petitioners along with other persons, who were sitting in a circle way in possession of knives, iron rods and etc. They conspired to commit robbery in Harris Nadar Jewelry Shop and on hearing the conspiracy, the defacto complainant and his team surrendered them, seized weapons and arrested them.

3. Based upon the complaint given by the defacto complainant, the case has been registered in Crime No.322 of 2014 for the offence punishable under Section 399 of IPC. After completing the investigation, final report was filed and that was also committed to the Sessions Court. The case has been split up against this petitioners and the same is pending in SC.No.10 of 2019 before the learned Chief Judicial Magistrate, Nagercoil, Kanyakumari District. This petitioners have been arrayed as accused 1 and 3 to 5.

4. Seeking quashment of the aforesaid criminal proceedings, this petition came to be filed solely on the ground that the co-accused, namely, Ramesh Kumar, who was arrayed as accused No.6, filed Crl.O.P.(MD) No.21671 of 2016 before this Court. That was allowed by the order dated 14.10.2020, when it was in the committal stage.

5. This Court went through the materials and has found that the aforesaid Ramesh Kumar returned home for lunch on 09.04.2014. At the time of taking lunch along with his friends, the respondent police entered into the house, assaulted them and also took all the persons along with Ramesh Kumar and the case has been registered. Because of the aforesaid assault and the criminal case, this petitioners and the aforesaid Ramesh Kumar filed a complaint before the State Human Rights Commission in S.H.R.C.Nos.2672 of 2014 and 2703 of 2014 and after enquiry, the respondent police was found guilty and they were ordered to pay Rs.3,00,000/- as compensation and also further recommended to take departmental action to be initiated against them. In order to wreak vengeance, the case has been falsely foisted. On that ground, the committal proceedings in PRC.No.14 of 2015 against the aforesaid Ramesh Kumar was quashed.

6. What applies to the aforesaid Ramesh Kumar equally applies to this petitioners also. So, the benefit of quashment that has been given to the aforesaid Ramesh Kumar can also be extended to this petitioners, since this petitioners are also standing on the very same footing with the aforesaid Ramesh Kumar. Hence, no more discussion is required in this petition apart from the aforesaid discussion that has been made in the aforesaid Criminal Original Petition.

7. In view of the above, this petition is liable to be allowed and accordingly, it is allowed. The entire proceedings in S.C.No.10 of 2019 on the file of the learned Chief Judicial Magistrate, Nagercoil, Kanyakumari District is hereby quashed. Consequently,



connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

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/ /2021

Sub Assistant Registrar(CS)

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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 Chief Judicial Magistrate,
Nagercoil, Kanyakumari District.
- 2.The Inspector of Police,
Kottar Police Station,
Kottar, Nagercoil,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.N.PRAGALATHAN, Advocate (SR-31240[F] dated 05/10/2021)

CrI.O.P. (MD)No.14895 of 2021
04.10.2021

NSN(CO)
KB(25.10.2021) 3P 4C