



Crl.O.P.No.28024 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2022

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.No.28024 of 2022

and

Crl.M.P.Nos.17230 & 17232 of 2022

1.Nirmala Mary
2.John Prabhakaran
3.Arockiajockrish

... Petitioners

Vs.

1.State rep.by
The Inspector of Police,
T-11, Thiruninravur Police Station,
Thiruninravur, Thiruvallur District.
Crime No.702 of 2019

2.Thilagavathi

... Respondents

Prayer : The Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in SC No.122 of 2020 pending on the file of the Judicial Magistrate-II, Thiruvallur District and quash the same.

For Petitioners ... Mr. K. Elangovan

For Respondents ... Mr. S. Santhosh, for R1
Government Advocate (Crl.Side)



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ORDER

This Criminal Original Petition has been filed to call for the records in S.C.No.122 of 2020 on the file of Principal District and Sessions Court, Tiruvallur and quash the same.

2. The learned counsel appearing for the petitioners submitted that there is a dispute between the petitioners and the defacto complainant with regard to non completion of interior work and repayment of Rs.1.60 lakhs. For that dispute, with influence of Bahujan Samaj Party, they filed this complaint falsely and police also laid charge sheet. Further submitted that there is no allegation against the petitioners / accused and there are many contradictions between FIR and 161 statement of the witnesses. Besides the tenants residing in the same apartment have also given statement that only they heard about the incident and not an eye witness to the occurrence. There is no witness to the occurrence. Therefore, he seeks to quash the criminal proceedings.



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3. When the matter is taken up for hearing, the learned Government Advocate (Crl.Side) appearing for the first respondent submitted that the case is posted for further proceedings.

4. I have considered the rival submissions and perused the records.

5. On perusal of the records, it is revealed the fact that the petitioners are accused in S.C.No.122 of 2020 on the file of Principal District and Sessions Court, Tiruvallur. The respondent police prosecuted the petitioners / accused for having committed the offences punishable under Sections 323, 355, 352, 354 and 34 of IPC and Section 4 of the Prohibition of Harassment of Women Act, 2002 along with offences under Sections 3(1) (r), 3(1) (s) and 3(1) (v) of SC/ST (Prevention of Atrocities) Act, 1989.



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6. Considering the submissions made by the learned counsel appearing for the petitioners that there are many contradictions between the complaint and the 161 statement of the complainant as well as the tenants residing in the same locality also stated that only they heard about the incident and not seen the incident. The motive for the complaint is non completion of interior work and repayment of Rs.1.60 lakhs. Since it was fulfilled with influence of Bahujan Samaj Party, the case has been foisted. But with regard to truthfulness of motive, contradictions, omissions and non availability of eye witnesses, all has to be considered before the trial Court.

7. While considering the case for quashing under Section 482 Cr.P.C., this Court will not evaluate the evidence and truthfulness of the allegations. Therefore, before the commencement of the trial, it is not proper to quash the criminal proceedings, when there is a *prima facie* offence made out against the trial.



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8. Therefore, it does not meet the parameters laid down by the Hon'ble Supreme Court in the cases in ***State of Haryana vs. Ch.BhajanLal (AIR 1992 SC 604)***, ***M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others (2021 SCC online 315)*** & ***PRATIBHA RANI Vs.SURAJ KUMAR & ANR (1985 Crl.L.J.817)***. Therefore, it is inappropriate to quash the S.C.No.122 of 2020 pending on the file of the Principal District and Sessions Judge, Tiruvallur. Therefore, I find no merit and investigation has to be conducted to find out the truth.

9. Accordingly, the Criminal Original Petition is dismissed. Consequently connected miscellaneous petition in Crl.M.P.No.17230 of 2022 is closed.

10. The learned counsel for the petitioners seeking to dispense with the appearance of the petitioners / accused by way of Crl.M.P.No.17232 of 2022. Considering the said request made by the learned counsel for the petitioners, the personal appearance of the first petitioner, Nirmala Mary before the trial Court is hereby dispensed, with a condition that she should



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appear before the trial Court for further proceedings, whenever required by
the Court.

16.11.2022

AT

Index : Yes/No

To

- 1.The Principal District and Sessions Court, Tiruvallur.
- 2.The Inspector of Police,
T-11, Thiruninravur Police Station,
Thiruninravur, Thiruvallur District.
- 3.The Public Prosecutor,
High Court of Madras.



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V.SIVAGNANAM ,J.

AT

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