



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD) No.3074 of 2022

and Crl.M.P(MD) Nos.2301 and 2302 of 2022

WEB COPY

Vinu

...Petitioner

Vs.

1. The Inspector of Police
Thiruvattar Police Station
Kanyakumari District

2.Rani

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to the proceedings of PRC.No. 21 of 2021 on the file of the Judicial Magistrate II, Padmanabhapuram and Quash the same as against the petitioner's

For Petitioner : M/s.Narayanakumar K P

For Respondents : Mr.K.Sanjai Gandhi
No.1 to 3 Government Advocate(Crl.Side)

ORDER

This petition has been filed seeking direction to quash the proceedings in PRC.No. 21 of 2021 on the file of the Judicial Magistrate II, Padmanabhapuram as against the petitioner.

2. The case of the prosecution is that on 25.08.2019 at about 8.30 pm., while the defacto complainant's son namely Ajin was in home he received a phone call from the first accused and went out from the home. Subsequently at about 11.00 pm., one Jino dropped the defacto complainant's son in his home with injuries. On enquiry it came to light that the all the five accused along with the defacto complainant's son consumed alcohol, at that time there was a wordy quarrel in which the defacto complainant's son was assaulted. Upon the intervention of one Rajesh the injured was saved and thereafter admitted in the hospital for treatment. Hence the case came to be registered.

3. The learned Counsel appearing for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution.

4. The learned Government Advocate(Crl.Side) would submit that the case is pending committal

5. Heard the learned counsel appearing on either side.



6. It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in **Crl.A.No.579 of 2019** dated **02.04.2019** in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr.**, as follows:-

" 12. So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

7. Recently, the Hon'ble Supreme Court of India dealing in respect of the very same issue in **Crl.A.No.1572 of 2019** dated 17.10.2019 in the case of **Central Bureau of Investigation Vs. Arvind Khanna**, wherein, it has been held as follows:

"19. After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for."



8. Further the Hon'ble Supreme Court of India also held in the order dated **02.12.2019** in **Crl.A.No.1817 of 2019** in the case of **M.Jayanthi Vs. K.R.Meenakshi & anr**, as follows:

"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.

.....

13. A look at the complaint filed by the appellant would show that the appellant had incorporated the ingredients necessary for prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....."

The above judgments are squarely applicable to this case and as such, the points raised by the petitioner cannot be considered by this Court under Section 482 Cr.P.C.

9. In view of the above discussion, this Court is not inclined to quash the proceedings in Judicial Magistrate II, Padmanabhapuram.

10. Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

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Sub Assistant Registrar(CS)

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To

1. The Inspector of Police,
Thiruvattar Police Station,
Kanyakumari District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.K.P.NARAYANAKUMAR, Advocate (SR-6306[F] dated
15/02/2022)

CrI.O.P.(MD) No.3074 of 2022
14.02.2022

RD(28.02.2022) 4P 4C