



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 29.03.2022**

**CORAM**

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

**CrI.O.P. (MD)No.1237 of 2022**

**and**

**CrI.M.P(MD)Nos.908 & 909 of 2022**

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1.V.Veeramani  
2.V.Tamilarasi  
3.V.Raja  
4.V.Naveen  
5.V.Anandh  
6.S.Pappa @ Chokkammal ... Petitioners/Accused Nos.1 to 6  
Vs.  
R.Dhanasekar ... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to C.C.No.1032 of 2019 on the file of the learned Judicial Magistrate No.VI, Madurai for the alleged offences under Sections 147, 337, 341, 447 and 506(ii) of I.P.C and quash the same as against the petitioners.

For Petitioners : Mr.R.Muruga Poopathy  
For Respondent : Mr.S.A.Ajmal Khan

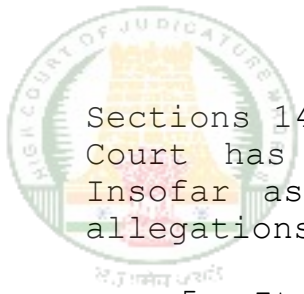
**ORDER**

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.1032 of 2019 on the file of the learned Judicial Magistrate No.VI, Madurai, as against the petitioners.

2. The respondent preferred a complaint before the learned Judicial Magistrate No.VI, Madurai stating that on 27.03.2019, when the respondent supervised the construction work at his brother's land, the petitioners 1 to 5 trespassed into the respondent's brother land and threatened him with dire consequences and the petitioners 3 to 5 gave life threat to the respondent and his brother. The same was reported before the police on 29.03.2019. The said complaint has been taken on file in C.C.No.1032 of 2019 and charges were framed against the petitioners under Sections 147, 337, 341, 447 and 506(ii) of I.P.C on the file of the learned Judicial Magistrate No.VI, Madurai.

3. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent.

4. Totally there are six accused, in which the petitioners are arraigned as Accused Nos.1 to 6. Though there are specific allegations made as against the petitioners 1 to 5/Accused Nos.1 to 5, there is no specific allegation and overt act as against the sixth petitioner/sixth accused to attract the offences under



Sections 147, 337, 341, 447 and 506(ii) of I.P.C. However, the trial Court has taken cognizance as against all the accused persons. Insofar as accused Nos.1 to 5 are concerned, there are specific allegations against them.

5. 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.**, in which the Honourable Supreme Court held 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.

6. 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."

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7. 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**, wherein, it has been held 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.

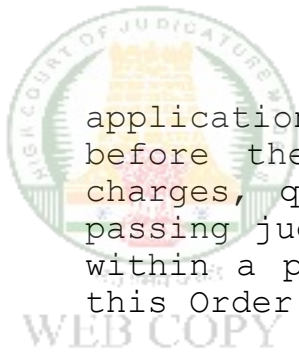
.....

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 learned counsel for the petitioners as against the petitioners 1 to 5 cannot be considered by this Court under Section 482 Cr.P.C.

8. In view of the above, this Court is not inclined to quash the proceedings as against the petitioners 1 to 5 in C.C.No.1032 of 2019 on the file of the learned Judicial Magistrate No.VI, Madurai. The petitioners 1 to 5 are at liberty to raise all the grounds before the trial Court. Considering the facts and circumstances of the case and also considering the age of the petitioners 1 to 5, the personal appearance of the petitioners 1 to 5 is dispensed with and they

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application. However, the petitioners 1 to 5 shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment. The trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of this Order.

**9.Accordingly, this Criminal Original Petition is dismissed insofar as the petitioners 1 to 5/Accused Nos.1 to 5 are concerned.**

10.Insofar as sixth petitioner/Accused No.6 is concerned, there is no allegation and specific overt act as against him, this Criminal Original Petition is allowed in respect of the sixth petitioner/Accused No.6 and the proceedings in C.C.No.1032 of 2019 on the file of the learned Judicial Magistrate No.VI, Madurai is quashed.

**11.Accordingly, this Criminal Original Petition is allowed insofar as the sixth petitioner/Accused No.6 is concerned.**

12.In view of the above discussions, this Criminal Original Petition is partly allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

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/ /2022

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

The Judicial Magistrate No.VI, Madurai.

Order made in

**Crl.O.P(MD)No.1237 of 2022**

**29.03.2022**

SP(CO)

GC(07.04.2022) 4P 2C