



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2022

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P(MD)No.15732 of 2020

1.Seenivasan
2.Ramasamy @ Ramachandran
3.Alagumuthu

... Petitioners/Accused 1 to 3

Vs.

1.The Deputy Superintendent of Police,
Kovilpatti, Tuticorin District.

2.State rep., by
The Inspector of Police,
Naalatinputhur Police Station,
Tuticorin District.
(In Crime No.117 of 2017)

... Respondents/Complainants

3.Shankar

... 3rd Respondent/
Defacto Complainant

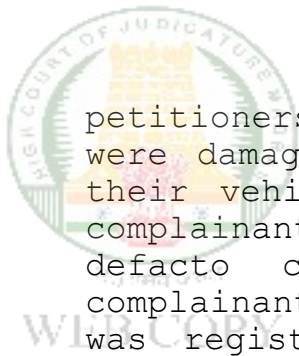
Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in connection with charge sheet in S.C.No.129 of 2017 on the file of the learned II Additional Sessions Court and (PCR) Judge, Tirunelveli and to quash the same in respect of the petitioners.

For Petitioner	:	Mr.P.Banuprasath
For R1 & R2	:	Mr.K.Sanjai Gandhi Government Advocate (Crl.side)
For R3	:	Mr.S.t.Sasidharan Tamil Kani

ORDER

The Criminal Original Petition has been filed to quash the charge sheet in S.C.No.129 of 2017 on the file of the learned II Additional Sessions Court and (PCR) Judge, Tirunelveli.

2.The case of the prosecution is that totally three accused in this case. The petitioners are arrayed as Accused Nos.1,2 and 3. on 07.05.2017 at about 14 hours the defacto complainant went on Mud pathway through his vehicle bearing Registration No.TN 69 BZ 5531, at that time, the petitioners stopped their vehicle in a pathway. when the same was questioned by the defacto complainant, the petitioners quarreled with the defacto complainant. Thereafter, the



petitioners return back from the function and saw their vehicles were damaged. They suspected the defacto complainant had damaged their vehicle. Immediately, the petitioners went to the defacto complainant's house threatened and attacked him, thereby, the defacto complainant caused injury. Therefore, the defacto complainant lodged a complaint against the petitioners and the same was registered in Crime No.117 of 2017 for the offences under Sections 294(b), 323 IPC and under Sections 3(i)(r), 3(i)(s) and 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015. The respondent police filed a final report before the II Additional Sessions Court (PCR), Tirunelveli in SC.No.129 of 2007 and the same was pending.

3.The learned Counsel appearing for the petitioners would submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution.

4.The learned Government Advocate (Crl.side) would submit that the trial has been commenced and some of the witnesses have been examined in this case.

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.**, wherein it is 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."

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**, as follows:

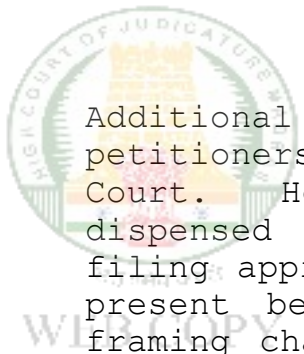
"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as 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 petitioners cannot be considered by this Court under Section 482 Cr.P.C.

8. In view of the above discussion, this Court is not inclined to quash the proceedings in S.C.No.129 of 2017 on the file of the II



Additional Sessions Judge and PCR Judge, Tirunelveli . The petitioners are at liberty to raise all the grounds before the trial Court. However, the personal appearance of the petitioners is dispensed with and they shall be represented by a counsel after filing appropriate application. However, the petitioners 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.

10. Accordingly, this Criminal Original Petition is dismissed with liberty to the parties to approach this Court, if they settle the issue amicably.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

rmk

Encl:Photocopy of Compromise Memo.

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 II Additional Sessions Judge and (PCR) Judge,
Tirunelveli.

2.The Deputy Superintendent of Police,
Kovilpatti, Tuticorin District.

3.The Inspector of Police,
Naalatinputhur Police Station,
Tuticorin District.

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

+1 CC to M/s.P.BANU PRASATH, Advocate(SR-22892[F] dated 29/04/2022)

Crl.O.P(MD) .No.15732 of 2020

28.04.2022

MGJ(25.05.2022) 4P 6C

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