



Crl.O.P.(MD) No.14099 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2022

CORAM:

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

Crl.O.P.(MD) No.14099 of 2022

and

Crl.M.P(MD) Nos.9070 and 9071 of 2022

1. Asaimayandi
2. Soundarapandi
3. Sivasankar

... Petitioners

VS

1. The Inspector of Police
A.Mukkulam Police Station
Virudhunagar District

2. Ramesh

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records in respect of S.C. No.31 of 2022 on the file of the Sub Court,Aruppukottai and quash the same as against the petitioner.

For Petitioners : Mr.J.Vijayaraja

For Respondent : Mr.E.Antony Sahaya Prabahar
No.1 Additional Public Prosecutor



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ORDER

This criminal original petition has been filed seeking to quash the charge sheet in S.C. No.31 of 2022 on the file of the Sub Court, Aruppukottai

2. The learned Counsel appearing for the petitioners submitted that as per the prosecution case, the injuries sustained are simple injuries and that too, not on vital parts of the body. There is no evidence that the petitioners/accused assaulted with deadly weapons with an intention to cause injury to the complainant. The case is falsely foisted in order to evict the petitioner from the temple. The petitioners also gave a complaint against the complainant and on further investigation, they cannot improve the case. Hence, he pleaded to quash the proceedings pending in S.C. No.31 of 2022 on the file of the Sub Court, Aruppukottai

3. The learned Additional Public Prosecutor submitted that the case stands posted to 06.09.2022 for framing of charges.



4. The Hon'ble Supreme Court in **Indian Oil Corporation vs. NEPC**

India Limited and others [(2006)6 SCC 736] laid down the principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings, which are relevant for the present purpose are:-

(i) A complaint can be quashed where the allegations made in the complaint, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.

(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with malafides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.



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(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out : (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceedings are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.



5. I have considered the matter in the light of the submissions made by both the parties.

6. Perusal of the records reveals the fact that the case has been registered against the petitioners on the complaint given by one Ramesh, with regard to the alleged incident that happened on 02.02.2020 at about 07.45pm., According to the case of the prosecution, the complainant was assaulted by hand and sticks and also sustained only simple injuries, but any how it is mentioned as though the allegation is made out to attract the offence under Section 307 IPC. The learned for the petitioners would submit that there is no evidence available on record for framing charges as against the accused persons for the offence under Section 307 IPC.

7. On perusal of the records, it is found that the petitioners assaulted the complainant only with hand and sticks and he sustained injuries only in some parts of the body and not on the vital parts. Further, in the statement of Doctor witnesses, namely, LW.13 and 14, they have not stated that they found injuries upon the complainant. Further, it is clear that the complainant sustained some minor injuries as per the evidence of Doctor and to that effect, Accident



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Register was also obtained. In view of the same, the criminal proceedings may not be quashed.

8. Further, it is stated that charges have not been framed. Hence, the petitioners are directed to approach the trial Court and file a petition before framing of charges. The learned Judge is directed to verify if any record is available to make out the charge by the Sessions Court and take further action in accordance with law and at this stage, it cannot be quashed.

9. Therefore, I find no merit in this criminal original petition and the same is dismissed. Consequently, the connected miscellaneous petitions are closed.

04.08.2022

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
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To

1. The Sub Court, Aruppukottai
2. The Inspector of Police
A.Mukkulam Police Station
Virudhunagar District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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V.SIVAGNANAM, J.

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