



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 14.12.2022
PRONOUNCED ON: 04.02.2022
CORAM
THE HONOURABLE MR.JUSTICE **K.MURALI SHANKAR**

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Crl.O.P. (MD)No.14844 of 2018
and
Crl.M.P. (MD)Nos.6588 and 6589 of 2018

Muniyandi @ Daniel : Petitioner/1st Accused

Vs.

1.State represented by
The Inspector of Police,
Panavadalichathiram Police Station,
Tirunelveli District,
in Crime No.79 of 2017. : 1st Respondent/Complainant

2.Shanmugasundaram : 2nd Respondent / Defacto
Complainant

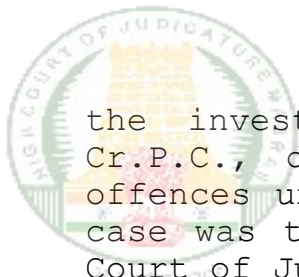
PRAYER : Criminal Original Petition has been filed under Section 482 Cr.P.C, to call for the records in the charge sheet in P.R.C.No.26 of 2018, on the file of the Judicial Magistrate, Sankarankovil, Tirunelveli District and quash the same.

For Petitioner : Mr.M.Ramu
For Respondents : Mr.M.Muhumanikkam
Government Advocate(Crl.Side)
for R.1
: Mr.T.Indirachittu
for R.2

ORDER

This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking orders to call for the records relating to the charge sheet in P.R.C.No.36 of 2018, pending on the file of the Judicial Magistrate Court, Sankarankovil, Tirunelveli District and quash the same.

2. The petitioner is the first accused in P.R.C.No.36 of 2018 pending on the file of the Judicial Magistrate Court, Sankarankovil. On the basis of the complaint lodged by the second respondent, F.I.R. came to be registered in Cr.No.79 of 2017 against two persons including the petitioner for the offences under Sections 294(b), 323, 307 and 506(ii) I.P.C. The first respondent, after completing



the investigation, has laid a final report under Section 173 Cr.P.C., dated 14.09.2017 against the petitioner herein for the offences under Section 294(b), 324, 307 and 506(ii) I.P.C., and the case was taken on file in P.R.C.No.36 of 2018, on the file of the Court of Judicial Magistrate, Sankarankoil.

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3. The case of the prosecution is that on 08.05.2017, at about 06.00p.m., when the petitioner and his son were travelling in a car, the second respondent and other witnesses had questioned the petitioner in respect of the amount alleged to have been cheated by him that the petitioner had abused them in filthy language and attacked the second respondent with aruval and attempted to murder him and that thereafter, he caused criminal intimidation.

4. It is not in dispute that the petitioner's son, who was originally arrayed as second accused in F.I.R., has filed a petition in Crl.O.P.(MD)No.9696 of 2017 under Section 482 Cr.P.C., for quashing the F.I.R., in Cr.No.79 of 2017 and the learned Judge of this Court by observing that the petitioner therein was unmarried and was seeking employment with Diploma in Engineering and that the Court was of the view that the petitioner therein was not involved in the offence, as no specific case was made as against him for any of the offences for which the case was registered, allowed the petition and quashed the F.I.R. proceedings in Cr.No.79 of 2017 so far as the second accused is concerned.

5. As rightly pointed out by the learned Government Advocate (Crl.Side), it is pertinent to note that this Court while quashing the F.I.R. so far as the second accused is concerned, has specifically directed the first respondent police to proceed with the complaint and file a final report within a period of three months from the date of receipt of a copy of that order and accordingly, the investigation was proceeded and the final report came to be filed against the present petitioner.

6. The learned Counsel for the petitioner would submit that the petitioner is a reporter of "Netrikan" weekly magazine and that since the petitioner was reporting the illegal activities of the first respondent police, they have foisted a false case implicating the petitioner. The petitioner in the Criminal Original Petition has alleged that he was forcibly taken from his house by the Deputy Superintendent of Police, Sankarankovil, that the petitioner's son, on suspecting the police activities, sent a representation to the Superintendent of Police, Tirunelveli and on the same day, he filed a Habeas Corpus Petition in H.C.P.(MD)No.700 of 2017 and when the said petition came up for hearing, the learned Government Advocate (Crl.Side) has submitted that the impugned case was registered against the petitioner as well as against his son under Sections 294 (b), 323, 307 and 506(ii) I.P.C..



7. The learned Counsel for the petitioner would submit that the Medical Officer, who treated the injured, gave his opinion that the injury is of abrasive in nature and the injured was treated as out patient and that if really the occurrence was happened, there was no occasion for the injured to take treatment on the next day at 04.45p.m., and the Medical Officer has also stated that the injury was not caused by aruval.

8. As rightly contended by the learned Government Advocate (Crl.Side), the above aspects cannot be gone into, in the petition filed under Section 482 Cr.P.C., and it is a matter for trial.

9. It is settled law that the High Courts while exercising powers under Section 482 Cr.P.C., is not required to enter into and/or consider the merits of the case in detail, which as such required to be considered at the time of trial. It is pertinent to mention that the Honourable Supreme Court in **Dhruvaram Murlidhar Sonar vs The State Of Maharashtra** reported in **2019(18) SCC 191**, after considering the decision of the Hon'ble Supreme Court in **State of Haryana and Ors. v. Bhajan Lal and Others**, reported in **1992 Supp (1) SCC 335**, has specifically held that exercise of powers under Section 482 Cr.P.C., to quash the proceedings is an exception and not a rule and that inherent jurisdiction under Section 482 Cr.P.C., though wide has to be exercised sparingly, carefully and with caution, only when such exercise is justified by tests specifically laid down in Section itself. It is also settled law that appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of power under Section 482 Cr.P.C. Applying the above settled position of law, the petitioner has not made out any ground to quash the proceedings.

10. It is not in dispute that during the pendency of the above petition, the learned jurisdictional Magistrate, after following all the necessary legal formalities has passed an order dated 08.10.2021 committing the case to the Principal Sessions Court, Tirunelveli. It is also not in dispute that the case was taken on file in S.C.No.563 of 2021 by the learned Principal Sessions Judge, Tirunelveli and thereafter, the case was made over to the Assistant Sessions Court, Sankarankovil and that the case is now pending on the file of the Assistant Sessions Court/Subordinate Court, Sankarankovil.

11. Considering the above, this Court is of the view that since prima facie case is made out, as rightly pointed out by the learned Government Advocate (Crl.Side), the petitioner has to face the trial and hence, this Court concludes that the above Criminal Original Petition is devoid of merits and the same is liable to be dismissed.



12. In the result, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar(Writs)

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/ /2022

Sub Assistant Registrar(CS)

SSL

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 Judicial Magistrate Court, Sankarankovil,
Tirunelveli District.
2. The Inspector of Police,
Panavadalichathiram Police Station,
Tirunelveli District,
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER MADE IN
Crl.O.P. (MD) No.14844 of 2018
04.02.2022

SB(CO)

TR(22.02.2022) 4P 4C