



Crl.O.P.(MD) No.21045 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.11.2022

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THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.21045 of 2022

and

Crl.M.P.(MD)Nos.14718 & 14719 of 2022

Jesu Rethinam

...Petitioner

VS

**1. The Inspector of Police
Suchindram Police Station,
Kanyakumari District**

2. Aswin Benny

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertaining to the Charge Sheet in C.C.No.335 of 2019 on the file of the Judicial Magistrate III, Nagercoil, Kanyakumari District and quash the same as illegal.

For Petitioner : Mr.G.Anto Prince

For Respondents : Mr.R.Sivakumar

Government Advocate (Crl. side)for R1



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ORDER

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This Criminal Original Petition has been filed to quash the charge sheet in C.C.No.335 of 2019 on the file of the Judicial Magistrate III, Nagercoil, Kanyakumari District

2. It is the submission of the learned Counsel for the Petitioner that the Petitioner as A1 alleged to have used abusive words attracting the provisions of Section 294(b) of IPC. The First Information Report was registered in the year 2014 , final report was laid in the year 2019. Therefore it is hit under Section 468 of Cr.P.C as the charge sheet filed belatedly. The learned Counsel for the Petitioner invited the attention of this Court to the offences mentioned in the final report which is nothing but replica of the contents of the First Information Report. The Petitioner is now aged about 65 years and bed ridden due to kidney failure. Therefore on that ground he seeks to quash the charge sheet.

3. It is the further contention of the learned Counsel for the Petitioner that the final report had been belatedly lodged for the offences under Sections 294(b), 323 and 452 of IPC. Even for argument sake the



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ingredients of offence mentioned in the charge sheet are not at all attracted.

To attract the offence under Section 294 (b) of IPC it should be in the public place, whereas here it is within the four walls of the house of the defacto Complainant. Therefore Section 294 (b) of IPC is not attracted . Similar to that other offences lodged in the petition is not attracted.

4. The learned Government Advocate (Crl.Side) would submit that the charge sheet laid before the Court and the case is pending trial and chief examination of PW.1 is over. Therefore it is not a fit case for quashing the charge sheet.

5. Considering the submission of the learned Government Advocate(Crl.Side) that trial had commenced, this is not a fit case for quashing the charge sheet. Hence this Criminal Original Petition stands dismissed.

6. Considering the submission of the learned Counsel for the Petitioner that the Petitioner herein is bedridden, the learned Judicial Magistrate No.III, Nagercoil is directed to consider application filed on



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behalf of the accused seeking exemption from personal appearance.

Consequently connected miscellaneous petition in Crl.M.P(MD) No.14718 of 2022 stands dismissed and Criminal Miscellaneous Petition in Crl.M.P(MD) No.14719 of 2022 stands allowed.

29.11.2022

Internet:Yes./No

Index:Yes/no

aav

To

1. The Judicial Magistrate III,
Nagercoil, Kanyakumari District
2. The Inspector of Police
Suchindram Police Station,
Kanyakumari District
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

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and
CrI.M.P.(MD)Nos,14718 & 14719 of 2022

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