



Crl.O.P.(MD)No.21515 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.12.2022

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.21515 of 2022

and

Crl.M.P.(MD)No.15148 of 2022

Esakkipandian

... Petitioner

Vs.

1.The State represented by
The Inspector of Police,
Tenkasi Police Station,
Tenkasi District.
(Crime No.571 of 2022)

2.K.Selvi

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in connection with the impugned FIR in Crime No.571 of 2022 on the file of the first respondent police and quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.G.Thalaimutharasu

For R1 : Mr.M.Muthumanikkam
Government Advocate (Crl. Side)



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Crl.O.P.(MD)No.21515 of 2022

ORDER

This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking orders to call for the records in Crime No.571 of 2022 pending on the file of the first respondent and quash the same in so far as the petitioner is concerned.

2. The petitioner is the first accused in Crime No.571 of 2022 on the file of Tenkasi Police Station, Tenkasi District.

3. On the basis of the complaint lodged by the second respondent, who is the Sub-Inspector of Police, Tenkasi Police Station, FIR came to be registered in Crime No.571 of 2022 against two persons including the petitioner for the alleged offence under Section 25(1A) of Arms Act, 1959.

4. The case of the prosecution is that one aruval (78 centimetre height) and two swords (2 feet height) were found from the car, in which, the petitioner had travelled.



Crl.O.P.(MD)No.21515 of 2022

5. The learned Government Advocate (Criminal Side) appearing for the first respondent would submit that they have already recorded the statement of 7 witnesses so far and that they are going to file a charge sheet within a short time. He would further submit that the complaint discloses cognizable offence and as such, the same has to be investigated and considering the nature of the allegations and the existence of *prima facie* case, this is not a fit case for quashing the FIR at this stage.

6. The Hon'ble Supreme Court in the case of ***State of Haryana and others Vs. Bhajan Lal and others*** reported in ***1992 SCC (Cri) 426*** has enumerated 7 categories of cases, where the power can be exercised under Section 482 of Code of Criminal Procedure and the same are extracted hereunder:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such



power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) where the allegations made in the First Information Report or 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 a case against the accused;

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;



CrI.O.P.(MD)No.21515 of 2022

(4) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”



Crl.O.P.(MD)No.21515 of 2022

7. In ***Dr.Dhruvaram Murlidhar Sonar Vs. The State of Maharashtra and others*** reported in ***2019 (18) SCC 191***, the Hon'ble Apex Court has specifically held that exercise of powers under Section 482 Cr.P.C. to quash the proceedings is an exception and not a rule. It is settled law that the inherent jurisdiction under Section 482 Cr.P.C. is wide but at the same time, the same is to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the Section itself.

8. The Hon'ble Supreme Court in ***Kaptan Singh Vs. The State of Uttar Pradesh and others*** reported in ***2021 (3) Crimes 247*** has stated that, that Court in catena of decisions has observed that the High Court is not required to go into the merits of the allegations and/or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and/or conducting the trial and that question is required to be examined keeping in view, the contents of FIR and *prima facie* materials, if any, requiring no proof and at such stage, the High Court cannot appreciate evidence nor can it draw its own inferences from contents of FIR and materials relied on.



CrI.O.P.(MD)No.21515 of 2022

9. It is pertinent to note that if the petition under Section 482 Cr.P.C. was filed at the stage of FIR, the allegations in the FIR/complaint only are required to be considered and whether a cognizable offence is disclosed or not is required to be considered.

10. In the case on hand, as rightly contended by the learned Government Advocate (Criminal Side), a cursory perusal of the FIR makes out a *prima facie* case against the accused and it is a matter for investigation and as such, the question of quashing the FIR at this stage does not arise at all. Hence, this Court concludes that this is not a fit case to invoke Section 482 Cr.P.C., for quashing the FIR at this stage and the same is liable to be dismissed.

11. In the result, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed.

06.12.2022

Index : Yes / No
Internet : Yes / No
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Crl.O.P.(MD)No.21515 of 2022

K.MURALI SHANKAR,J.

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To

- 1.The Inspector of Police,
Tenkasi Police Station,
Tenkasi District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Crl.O.P.(MD)No.21515 of 2022

Dated: 06.12.2022