



Crl.O.P.(MD)No.22104 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.12.2022**

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.22104 of 2022

and

Crl.M.P.(MD)Nos.15573 and 15575 of 2022

Arjun

... Petitioner

Vs.

1.State represented by
The Inspector of Police,
Thirumangalam Town Police Station,
Madurai District.
(Crime No.102 of 2020)

2.Murugan

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to C.C.No. 243 of 2022 on the file of the learned Judicial Magistrate, Tirumangalam, Madurai and quash the same as illegal.

For Petitioner : M/s.Roja Ramani
for Mr.R.Sundar

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



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ORDER

This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking orders to call for the records pertaining to the charge sheet in C.C.No.243 of 2022 on the file of the learned Judicial Magistrate, Tirumangalam, Madurai and quash the same as illegal.

2. The case of the prosecution is that on 03.03.2020 at about 10.40 p.m., when the defacto complainant, who is the Head Constable of the first respondent police station, along with another Head Constable Alagarsamy were roaming near Banu Theatre, Thirumangalam as a preventive measure, the petitioner and the other accused in a drunken mode had created ruckus behind the ticket counter of the Banu Theatre and that the defacto complainant instructed the accused to stop their illegal acts, the petitioner and the other accused had attacked the defacto complainant by mentioning that the first accused is a military man and abused him in filthy language and also attacked him again.

3. It is evident from the records that the first respondent, after completing the investigation, has laid the final report against five



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accused including the petitioner for the offences under Sections 143, 342, 294(b), 353, 332 and 506(2) IPC and Section 4(1)(j) of TN Prohibition Act.

4. The learned Government Advocate (Criminal Side) appearing for the first respondent would submit that the petitioner has been arrayed as second accused and the occurrence witnesses in their statements have specifically implicated the involvement of the petitioner in the occurrence and that since there were sufficient materials to proceed against the petitioner, the first respondent has rightly laid the charge sheet against all the accused including the petitioner.

5. 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;

(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.”

6. 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.

7. 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,



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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.

8. A cursory perusal of the final report and the statements filed along with the final report would make it clear that there existed a *prima facie* case to proceed against the petitioner and it is a matter for trial.

9. The learned Government Advocate (Criminal Side) appearing for the first respondent would submit that charges were already framed and the case stands posted for trial.

10. Considering the above and also the submission made by the learned Government Advocate (Criminal Side) and also taking note of the fact that this is not a fit case to quash the charge sheet against the petitioner, the trial Court is directed to complete the trial and dispose of the case in C.C.No.243 of 2022 as expeditiously as possible, preferably, within a period of three months from the date of receipt of a copy of this order.



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11. With the above direction, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petitions are closed.

20.12.2022

Index : Yes / No
Internet : Yes / No
csm

To

- 1.The Judicial Magistrate,
Thirumangalam, Madurai.
- 2.The Inspector of Police,
Thirumangalam Town Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

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Order made in
Crl.O.P.(MD)No.22104 of 2022

Dated: 20.12.2022