



Crl.O.P.No.24073 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.24073 of 2021

Manikandan

... Petitioner

Vs.

1. State represented by
The Inspector of Police,
Veppankuppam Police Station,
Vellore District.

2. Premjothi

... Respondents

PRAYER:- Criminal Original Petition filed under Section 482 of Cr.P.C praying to call for the records in connection in S.C.No.110 of 2019 on the file of Principal District and Session Court, Vellore and same may be quash the same.

For Petitioner : No appearance

For R1 : Mr.A.Gopinath

Government Advocate (Criminal Side)

For R2 : Mr.D.Thirumoorthy
for Mrs.S.P.Arthi

ORDER

This Criminal Original Petition has been filed calling for the records in S.C.No.110 of 2019 on the file of Principal District and Session Court, Vellore and to quash the same.



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2. There is no representation on behalf of the petitioner. Heard the learned Government Advocate (Criminal Side) appearing for the first respondent and the learned counsel appearing for the second respondent and perused the materials available on record.

3. The case of the prosecution is that on 23.08.2018 at about, 09.00 p.m, when the husband of the defacto complainant and his driver were standing near Odugathur Swamy Madam, Mahamedpuram, the accused came by Tractor loading river sand which was kept by the husband of the defacto complainant for public work. When it was questioned by the husband of the defacto complainant, the accused attacked him with deadly weapon. Therefore, he sustained grievous injuries. Immediately, he was taken to the hospital. Hence, the complaint.

4. On receipt of the information, the first respondent registered FIR in Crime No.68 of 2018 for the offences under Sections 147, 148, 294(b), 506(2), 307 and 149 of IPC. After completion of investigation, the final report has been filed and the same has been taken cognizance in S.C.No.110 of 2019 on the file of Principal District and Session Court, Vellore.



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5. A perusal of records and the statement recorded under Section 161 Cr.P.C revealed that there are totally 14 accused, in which the petitioner is arrayed as A9. The petitioner also went along with other accused and attacked the victim by deadly weapons. The Doctor, who treated the victim also categorically deposed about the injuries sustained by him. Therefore, there are specific overtact as against the petitioner and there is absolutely no ground to quash the entire proceedings.

6. In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in ***CrI.A.No.579 of 2019*** dated ***02.04.2019*** in the case of ***Devendra Prasad Singh Vs. State of Bihar & Anr.***, as follows:-

" 12.So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while



deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

7. Recently, the Hon'ble Supreme Court of India dealing the very same issue in ***Crl.A.No.1572 of 2019*** dated 17.10.2019 in the case of ***Central Bureau of Investigation Vs. Arvind Khanna***, as follows:

“19. After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High



Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for."

8. Further the Hon'ble Supreme Court of India also held in the order dated **02.12.2019** in **Crl.A.No.1817 of 2019** in the case of **M.Jayanthi Vs.**

K.R.Meenakshi & anr, as follows:

"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.

.....

13. A look at the complaint filed by the



appellant would show that the appellant had incorporated the ingredients necessary for prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....."

The above judgments are squarely applicable to this case and as such, the points raised by the petitioners are mixed question of facts and it cannot be considered in a quash petition under Section 482 Cr.P.C.

9. The provisions of inherent jurisdiction under Section 482 Cr.P.C can be invoked only to meet out the ends of justice and to prevent the abuse of process of law.

10. Therefore, this Court is not inclined to quash the proceedings in S.C.No.110 of 2019 on the file of Principal District and Session Court, Vellore. Accordingly, this Criminal Original Petition is dismissed.

30.10.2023

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

1. The Principal District and Session Court, Vellore.
2. The Inspector of Police,
Veppankuppam Police Station,
Vellore District.
3. The Public Prosecutor
Madras High Court.



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G.K.ILANTHIRAIYAN, J.

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Crl.O.P.No.24073 of 2021
and Crl.M.P.Nos.12506 and 12507 of 2021

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