



Crl.O.P.(MD)No.2771 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2023

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THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.2771 of 2023
and
Crl.M.P.(MD)Nos.2504 & 2507 of 2023

1.S.Thiruselvam
2.S.Ganesan

... Petitioners

Vs.

1.The Inspector of Police,
Aruppukkottai Taluk Police Station,
Aruppukkottai, Virudhunagar-District.
(Crime No.227 of 2016)

2.Meenachi

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the entire records of the final report in S.C.No.180 of 2019 on the file of the learned Sub Court, Aruppukkottai and in Cr.No.227 of 2016 on the file of the first respondent and quash the same as illegal as against the petitioners.

For Petitioners : Mr.AK.Gopalan



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For R1

: Mr.R.Sivakumar,
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking orders to call for the entire records of the final report in S.C.No.180 of 2019 on the file of the learned Sub Court, Aruppukkottai and in Cr.No.227 of 2016 on the file of the first respondent and quash the same as illegal as against the petitioners.

2.The petitioners are the first and third accused in S.C.No.180 of 2019 on the file of the Sub Court, Aruppukkottai, Virudhunagar District.

3.The case of the prosecution is that when the defacto complainant and his wife came in two wheeler, the accused persons intervened and attacked them and caused injuries and that they have also abused them in filthy language. Hence, the defacto complainant preferred a complaint.



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4.On the basis of the complaint lodged by the defacto complainant, FIR came to be registered in Crime No.227 of 2016 against the petitioners for the alleged offences under Sections 341, 294(b), 323, 324, 307, 109 IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002. After investigation the respondent police filed a final report and the same was pending in S.C.No.180 of 2019.

5.The main contention of the learned counsel for the petitioners is that the occurrence as alleged by the prosecution was not at all taken place, that there is no medical evidence to attract the offence alleged by the prosecution and that even according to the statement of the Doctor, the injuries suffered by the victim are simple in nature. As rightly contended by the learned Government Advocate(Crl.side), those aspects cannot be gone into now and the same are matter for trial.

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:-



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“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.”

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



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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.

9.It is pertinent to note that if the petition under Section 482 Cr.P.C. was filed at the stage of charge sheet, the allegations in the charge sheet 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 charge sheet and the statements filed along with final report makes out a *prima facie* case against the accused and the contentions raised are matter for trial and as such, the question of quashing the charge sheet 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 charge sheet at this stage and the same is liable to be dismissed.



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11.In the result, this Criminal Original Petition stands dismissed.

Consequently, connected Miscellaneous Petitions are closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Sub Court,
Aruppukkottai,
Virudhunagar District.
- 2.The Inspector of Police,
Aruppukkottai Taluk Police Station,
Aruppukkottai, Virudhunagar 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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