



Crl.O.P.(MD)No.5740 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2023

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

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- 1.Kumaresadass
- 2.Jeyakumar
- 3.Anish
- 4.Sivakumar
- 5.Rajan
- 6.Prabhu
- 7.Murugavel
- 8.Rajamani
- 9.Sasidharan
- 10.Sasi
- 11.Kumar
- 12.Harikrishnan
- 13.Chandramohan



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14.Thulasi

15.Vijayakumar

16.Vinu

17.Sathishkumar

18.Manikandan

19.Senthilkumar

20.Jayapal

21.Soundararajan

22.Gopalakrishnan

23.Gunaseelan

24.Chinnaian

25.Jeyan

26.Rajkumar

27.Vijayadass

28.Murugadass

29.Ajithkumar

30.Subin

31.Minnal Selvan @ Selvan

32.Jegan



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33.Appavu

34.Asokan

35.Paulraj

36.Natheepan

37.Santhosh

38.Ramesh

39.Murugan

40.Selvakaran

41.Prathapsingh

42.Murugaraj

... Petitioners

Vs.

1.The Inspector of Police,
Pudukadai Police Station,
Kanyakumari.
(Crime No.204 of 2016)

2.Rajesh

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records from the learned Judicial Magistrate No.II, Kuzhithurai in PRC.No.30 of 2016 and quash the same as it has no prima facie case against the petitioners.



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For Petitioners : Mr.V.Kathirvelu
Senior Counsel
for M/S.Ananth C.Rajesh

For R1 : Mr.M.Sakthi Kumar,
Government Advocate (Crl. Side)

For R2 : No Appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings in PRC.No.30 of 2016 pending on the file of the learned Judicial Magistrate No.II, Kuzhithurai as against the petitioners.

2.According to the petitioners, based on the complaint given by the second respondent, the first respondent has registered a case as against the petitioners and others in Cr.No.204 of 2016 for the offence under Sections 147, 148, 188, 294(b), 336, 332 & 506(ii) IPC. Thereafter, without proper investigation, the first respondent filed final report. Already the petitioners gave complaint as against the police officials, but no action was taken. Without considering the same, the final report came to be filed. Even as per final report, the allegations are bald and more



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than 72 persons were arrayed as accused in this case. The police officials only unlawfully entered into the temple premises and damaged the temple properties and restrained the worshipers from conducting the festival. Therefore, pending proceedings in PRC.No.30 of 2016 is clear abuse of process of law and the same is liable to be quashed.

3.No counter was filed by the respondents.

4.The learned counsel appearing for the petitioners would contend that the petitioners herein have not involved in the occurrence. In fact, the police officials only unlawfully entered into the temple premises and damaged the temple property and also assaulted the worshipers. Based on the false complaint, FIR came to be registered and without conducting proper investigation, final report filed for the offence under Sections 147, 148, 188, 286, 294(b), 336, 332, 324, 326, 307 & 506(ii) IPC r/w 149 IPC. The petitioners are being the temple authorities and they have not committed any offence. Therefore, the pending proceedings is liable to be quashed.



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5.The learned Government Advocate(Crl.side) appearing for the first respondent would contend that more than 57 witnesses were examined and there are more than 37 eye witnesses available and thereby, prima facie materials available to proceed further as against the petitioners. At this stage, the petitioners have to face the trial and it is matter for trial and thereby, this petition is liable to be dismissed.

6.Heard both sides and perused the materials available in the records.

7.On perusal of records, it is observed that based on the complaint given by the second respondent, the first respondent registered a case and after completion of investigation, filed final report. As per final report, some prima facie materials available and thereby, it is not appropriate to quash the proceeding in PRC.No.30 of 2020. Considering the fact that more than 100 persons involved in this case and considering other facts and circumstances of the case, at this stage, this Court is declined to quash the above said proceedings.



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8.However, considering the date of alleged occurrence, it is appropriate to direct the Magistrate Court to commit the proceedings as against the accused persons, who are all regularly appearing before the learned Magistrate Court. Accordingly, the learned Judicial Magistrate No.II, Kuzhithurai is directed to commit the proceedings to the concerned Sessions Court, as early as possible, preferably, within a period of one month from the date of receipt of a copy of this order. Thereafter, the Sessions Court, after receipt of records, has to dispose of the case, as early as possible, preferably, within a period of six months. The petitioners are at liberty to file dispense with application and if any such application filed by the petitioners, the trial Court has to consider the same, in accordance with law.

9.With the above directions and observations, this criminal original petition is disposed of.

25.09.2023

NCC : Yes / No
Index : Yes / No



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Internet : Yes / No
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P. DHANABAL,J.

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To

- 1.The Judicial Magistrate No.II,
Kuzhithurai.
- 2.The Inspector of Police,
Pudukadai Police Station,
Kanyakumari.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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