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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 17/04/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Cr1.OP(MD)No.5693 of 2023

and

Cr1.MP(MD)Nos.4985 and 4986 of 2023

Smith : Petitioner

Vs.

1.State rep. by
The Inspector of Police,
Munneerpallam Police Station,
Tirunelveli District.
(In Crime No.159 of 2013) : R1/Complainant

2.D.R.Arun : R2/De-facto Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records and quash the proceedings in PRC No.83 of 2019 on the file of the Judicial Magistrate Court No.V, Tirunelveli.

For Petitioner : Mr.R.Murugan

For 1st Respondent : Mr.S.Manikandan
Government Advocate
(Criminal side)

**O R D E R**

This criminal original petition is filed seeking quashment of the case in PRC No.83 of 2019 on the file of the Judicial Magistrate Court No.V, Tirunelveli.

2.The case of the prosecution in brief:-

The de-facto complainant, who was working as 'Professor' in the IT Department attached to PSN Engineering College, lodged a complaint stating that he and one Sivakumar were working as Deputy Warden in Bharathi hostel. On 09/04/2013 at about 07.00 pm, the students were taking their dinner in the mess. At about 07.00 pm, the second and third year students picked up quarrel with the first year students and clash occurred between both the groups. The students mentioned in the complaint caused extensive damage to the hostel, rooms, property, etc. They also trespassed into their rooms and took away laptop, computer, printer, etc. They also entered into the hostel warden room and caused damage to the articles, so also in the kitchen and the College Principal room. They also went into another hostel called



'Anchor hostel' and caused damage to several articles including the vehicle belongs to the College worth about Rs.25,00,000/-. On the basis of the complaint given by the de-facto complainant, a case in Crime No.159 of 2013 was registered against several persons for the offences under sections 147, 148, 448 and 380 (NH) IPC and section 3 of TNPPDL Act. After completing the investigation process, final report was filed and it was taken cognizance in PRC No.83 of 2019 by the Judicial Magistrate No.V, Tirunelveli.

3. Seeking quashment of the same, this petition has been filed by A31.

4. Heard both sides.

5. The ground, on which this petition came to be filed is that either at the time of the alleged occurrence or during the course of investigation, no proper identification of the persons said to have involved in the occurrence was found out and this petitioner has been implicated in the above said occurrence on the basis of the list maintained by the



Hostel Warden. So the question arises for consideration is whether this factual aspect can be taken into account by this court for filing the final report.

6. Reading of the complaint as well as the final report shows that extensive damage was made by the students to the college and not even the private articles or goods belongs to the students were spared. They were also looted. It is seen that it is a large scale rioting. The property worth several lakhs have been damaged. Who actually took part in the above said rioting cannot be a matter for consideration by this court while exercising the jurisdiction under section 482 Cr.P.C. It involves the process of evidence, identification of the accused before the trial court.

7. No doubt that the crime is of the year 2013 and the case was taken cognizance in 2019 as PRC and some of the accused persons are absconding. Merely because of the pending trial process, the petitioner cannot take advantage of the same.



8. Another ground that has been taken by the petitioner is that the provisions of TNPPDL Act are not attracted to the present case. Whether the above said Act is attracted or not, now it is pending before the Hon'ble Division Bench of this court on reference. So, that can be taken into account by the trial court at the appropriate time. So, this ground is not also available to this petitioner at all at this stage.

9. So, I find absolutely no merit in this petition and the trial must be taken to its logical conclusion. But however, considering the oldness of the crime and the committal process is not yet over because of the non appearance of some of the accused, there shall be a direction to the committal court to split up the case against the absconding accused. The above said process must be completed within a period of four weeks from the date of receipt of a copy of this order. Further, a direction is also issued to complete the trial process within a period of six months after completing the split up process.



10. With the above said direction, this petition stands **dismissed**. Consequently, connected Miscellaneous Petitions are closed.

17/04/2023

Index: Yes/No
Internet: Yes/No
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To,

1. The Judicial Magistrate No.V,
Tirunelveli.
2. The Inspector of Police,
Munneerpallam Police Station,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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