



Crl.O.P.(MD)No.10462 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.08.2023

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THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.10462 of 2021

and

Crl.M.P.(MD)No.5342 & 5344 of 2021

1.Madasamy

2.Priyatharshan

3.Esakkimuthu

4.Maharajan

... Petitioners

Vs.

1.State through
The Inspector of Police,
Alangulam Police Station,
Tirunelveli District.
In Crime No.462 of 2019

2.Vijikumar

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records of the impugned



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proceedings in PRC.No.10 of 2021 on the file of the Judicial Magistrate, Alangulam and quash the same.

For Petitioners : Mr.P.Edin Brough
For R1 : Mr.R.M.Anbunithi,
Additional Public Prosecutor
For R2 : No Appearance

ORDER

This Criminal Original Petition has been filed to quash the impugned proceedings in PRC.No.10 of 2021 on the file of the Judicial Magistrate, Alangulam.

2.According to the petitioners, the first respondent police has registered FIR in Cr.No.462 of 2019 and thereafter filed final report for the offence under Sections 147, 148, 341, 294(b), 332, 353, 506(ii) IPC r/w Section 34 IPC and Section 3 of TNPPDL Act and the same was taken cognizance by the learned Judicial Magistrate, Alangulam in PRC.No.10 of 2021. The prosecution case is that on 02.12.2019, when



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the defacto complainant was driving a bus bearing Reg.No.TN-72-N-1237, in the route Tirunelveli to Tenkasi, the accused persons agitated as against the arrest of Thiruvalluvan, who is the leader of Tamilpuli party and blocked the bus in the middle of the road and broken the glass of the bus by throwing the stone. Bus conductor also sustained injury in the said occurrence. They also abused and threatened the defacto complainant. Hence, FIR has been registered. In fact, the party people conducted protest on 02.12.2019. But the petitioners herein are not the members of the above said party and they did not participate in the above said agitation conducted by the Tamilpuli party people, only because the petitioners are the same community people, their names were included and the first respondent police was also not investigated the matter in a proper manner. The petitioners were not present in the place of occurrence. The petitioners are completed their studies and waiting for their career and the first petitioner had applied for the job in Railway Recruitment Board and the second petitioner had applied for the jon in Central Industrial Security Force and the third petitioner is completed his Engineering studies and the fourth petitioner is working as a Sweeper in the Kurippankulam Panchayat. Because of this false case, the petitioners



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are affecting very much. There is no specific overt act attributed as against the petitioners herein. All the allegations are general and omnibus and therefore, the charge sheet 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 second respondent has preferred the false complaint as against the petitioners and based on the same the first respondent registered FIR in Cr.No.462 of 2019 and thereafter, without conducting proper investigation, filed final report and the same was taken cognizance by the learned Judicial Magistrate, Alangulam in PRC.No.10 of 2021. Now, the case was committed to the Sessions Court, FTC, Tenkasi in S.C.No.466 of 2021. At the time of filing this petition, the case was at the stage of PRC and now it was committed to the Sessions Court. The petitioners have not committed any offence as alleged in the charge sheet and the first petitioner had applied for the job in Railway Recruitment Board and the second petitioner had applied for the job in Central Industrial Security Force and the third petitioner is completed his Engineering



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studies and the fourth petitioner is working as a Sweeper in the Kurippankulam Panchayat. Because of this false case, the petitioners are affecting very much. Hence, pending case is clear abuse of process of law and thereby, case is liable to be quashed.

5.The learned Additional Public Prosecutor appearing for the first respondent would contend that based on the complaint given by the second respondent, the first respondent registered FIR and thereafter, investigated the case. Since prima facie materials are available as against the petitioners, the first respondent filed final report and thereafter, case was committed to the Sessions Court, FTC, Tenkasi in S.C.No.466 of 2021. Since there are prima facie materials available as against the petitioners, they have to face the trial and hence, this petition is liable to be dismissed.

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



7. On perusal of records shows that on the date of occurrence, there was agitation for the arrest of one Thriuvalluvan, who is the leader of Tamilpuli party and thereby, the agitators waylaid the bus and damaged the mirror of the bus by throwing stones and in the said occurrence, the bus conductor was also sustained injuries. Hence, complaint was given by the second respondent, who is the bus driver and thereby, FIR was registered and after elaborate investigation, the first respondent filed final report and the same was on file in PRC.No.10 of 2021 by the learned Judicial Magistrate, Alangulam. Now, the case is committed to the Sessions Court, FTC, Tenkasi in S.C.No.466 of 2021.

8. According to the petitioners, they completed their studies and they have searching job. Due to the registration of this false case, their future will spoil. Further, according to the petitioners, the allegations are general and omnibus. There is no specific overt act as against the petitioners. As per final report, all the accused were involved in the alleged occurrence. However, on perusal of records revealed that the allegations are common and omnibus in nature. There is no specific overt act as against the petitioners.



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9.The learned counsel appearing for the petitioners also relied upon the judgment in Crl.O.P.Nos.17947 & 17949 of 2020 in a case of S.Karthik Vs. State by The Inspector of Police and another, wherein this Court held as follows:-

7. In the identical circumstances, this Court in the decision dated 14.12.2017, rendered in Crl.O.P.No.14296 of 2017 [V.Subramanian Vs. The State through the Inspector of Police, Kannankurichi Police Station, Salem] has quashed the proceedings for the absence of specified overt act against each and every student and the relevant portion of the judgment rendered in the abovesaid case is extracted below:

"5. On a perusal of the complaint as well as the statement of the witnesses under Section 161 (3) Cr.P.C, it is seen that none of the students have been implicated with overt acts for constituting the offences for which they are charged for.

6. It is generally averred that they had joined together and threatened the staff by throwing stones and damaging the college properties. The omnibus statement may not constitute the offences against each and every individual student, since criminal trial is contemplated only on the basis of definite allegations of commission of



the offence by every individual student.

7. The learned counsel for the petitioners relied upon the judgment of the Hon'ble Supreme Court in Sathish Mehra v. State of N.C.T. Of Delhi and Anr, AIR 2013 SC 506 and relevent paragraph of the said order read as follows:

“19. The view expressed by this court in Century Spinning's case (supra) and in I.Muniswamy's case (supra) to the effect that the framing of a charge against an accused substantially affects the person's liberty would require a reiteration at this stage. The apparent and close proximity between the framing of a charge in a criminal proceeding and the paramount rights of a person arrayed as an accused under article 21 of the Constitution can be ignored only with peril. Any examination of the validity of a Criminal charge framed against an accused cannot overlook the fundamental requirement laid down in the decisions rendered in Century Spinning and Munisawamy (supra). It is from the aforesaid perspective that we must proceed in the matter bearing in mind the cardinal principles of law that have developed over the years as fundamental to any examination of the issue as to whether the charges framed are justified or not. So analysed, we find that in the present case neither in the FIR nor in the charge-sheet or in any of the materials collected in the course of investigation any positive role of either of the



appellants, i.e., G.K.Bhat and R.K.Arora has been disclosed in the matter of renewal and encashment of the fixed deposits. All that appears against the aforesaid two accused is that one was the Chief Manager of the Bank whereas the other accused was at the relevant time working as the Senior Manager. What role, if any, either of the accused had in renewing the two fixed deposits in the sole name of Anita Mehra or the role that any of them may have had in the payment of the amount due against FD No. 21/91 to Anita Mehra or in cancelling the FD No.9/92 renewed in the sole name of Anita Mehra and thereafter making a fresh FD in the joint Anita Mehra and Satish Mehra, is not disclosed either in the FIR filed or materials collected during the course of investigation or in the charge-sheet filed before the Court. There can be no manner of doubt that some particular individual connected with the Bank must have authorized the aforesaid acts. However, the identity of the said person does not appear from the materials on record. It is certainly not the prosecution case that either of the accused-appellants had authorised or even facilitated any of the aforesaid action. In such a situation to hold either of the accused appellants to be, even prima facie, liable for any of the alleged wrongly acts would be a matter of conjecture as no such conclusion can be reasonably and justifiably drawn from the materials available on record. A



criminal trial cannot be allowed to assume the character of fishing and roving enquiry. It would not be permissible in law to permit a prosecution to linger, limp and continue on the basis of a mere hope and expectation that in the trial some material may be found to implicate the accused. Such a course of action is not contemplated in the system of criminal jurisprudence that has been evolved by the courts over the years. A criminal trial, on the contrary, is contemplated only on definite allegations, prima facie, establishing the commission of an offence by the accused which fact has to be proved by leading unimpeachable and acceptable evidence in the course of the trial against the accused. We are, therefore, of the view that the criminal proceeding in the present form and on the allegations levelled is clearly not maintainable against either of the accused-appellant G.K.Bhat and R.K.Arora. ”

10. On careful reading of the above said judgment, it is clear that without specific overt act, case against the petitioners can be quashed by this Court. In this case also there is no specific overt act as against the petitioners. In view of the above said judgment and considering the fact that the petitioners are degree holders and searching jobs and considering all other aspects, this Court is inclined to quash the impugned charge



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sheet. Accordingly, this criminal original petition is allowed and proceedings in S.C.No.466 of 2021 pending on the file of the FTC, Tenkasi is quashed as against the petitioners herein. 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 Judicial Magistrate,
Alangulam.
- 2.The Sessions Court, FTC,
Tenkasi.
- 3.The Inspector of Police,
Alangulam Police Station,
Tirunelveli District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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P. DHANABAL,J.

Today, this matter has been listed today under the caption “For Being Mentioned” at the instance of the learned counsel appearing for the petitioners.

2.When the matter is taken up for hearing today, the learned counsel appearing for the petitioners has represented that the case is pending before the learned Additional District Judge, Tenkasi in S.C. No.466 of 2021. But in the order copy, instead of mentioning the Court as Additional District Sessions Judge, Tenkasi, it was wrongly mentioned as FTC, Tenkasi. Therefore, the name of the Court has to be corrected.

3.The learned Additional Public Prosecutor appearing for the first respondent also admitted that the Court name was wrongly mentioned as FTC, Tenkasi, instead of Additional District Sessions Judge, Tenkasi.

4.In view of the above submissions, this Court is inclined to correct the name of the Court in paragraph Nos.4, 5, 7 & 10 of the



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order dated 18.08.2023 made in Crl.O.P.(MD)No.10462 of 2021.

Accordingly, Registry is directed to issue fresh order copy by making correction in paragraph Nos.4, 5, 7 & 10 of the order as follows:-

4.The learned counsel appearing for the petitioners would contend that the second respondent has preferred the false complaint as against the petitioners and based on the same the first respondent registered FIR in Cr.No. 462 of 2019 and thereafter, without conducting proper investigation, filed final report and the same was taken cognizance by the learned Judicial Magistrate, Alangulam in PRC.No.10 of 2021. Now, the case was committed to the file of learned Additional District Sessions Judge, Tenkasi in S.C.No.466 of 2021. At the time of filing this petition, the case was at the stage of PRC and now it was committed to the Sessions Court. The petitioners have not committed any offence as alleged in the charge sheet and the first petitioner had applied for the job in Railway Recruitment Board and the second petitioner had applied for the job in Central Industrial Security Force and the third petitioner is completed his Engineering studies and the fourth petitioner is working as a Sweeper in the Kurippankulam Panchayat. Because of this false case, the petitioners are affecting very much. Hence, pending case is clear abuse



of process of law and thereby, case is liable to be quashed.

*5.The learned Additional Public Prosecutor appearing for the first respondent would contend that based on the complaint given by the second respondent, the first respondent registered FIR and thereafter, investigated the case. Since prima facie materials are available as against the petitioners, the first respondent filed final report and thereafter, case was committed to the file of **learned Additional District Sessions Judge,Tenkasi** in S.C.No.466 of 2021. Since there are prima facie materials available as against the petitioners, they have to face the trial and hence, this petition is liable to be dismissed.*

7.On perusal of records shows that on the date of occurrence, there was agitation for the arrest of one Thriuvalluvan, who is the leader of Tamilpuli party and thereby, the agitators waylaid the bus and damaged the mirror of the bus by throwing stones and in the said occurrence, the bus conductor was also sustained injuries. Hence, complaint was given by the second respondent, who is the bus driver and thereby, FIR was registered and after elaborate investigation, the first respondent filed final report and the same was on file in PRC.No.10



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of 2021 by the learned Judicial Magistrate, Alangulam. Now, the case is committed to the file of **learned Additional District Sessions Judge, Tenkasi** in S.C.No.466 of 2021.

10. On careful reading of the above said judgment, it is clear that without specific overt act, case against the petitioners can be quashed by this Court. In this case also there is no specific overt act as against the petitioners. In view of the above said judgment and considering the fact that the petitioners are degree holders and searching jobs and considering all other aspects, this Court is inclined to quash the impugned charge sheet. Accordingly, this criminal original petition is allowed and proceedings in S.C.No.466 of 2021 pending on the file of the **learned Additional District Sessions Judge, Tenkasi**, is quashed as against the petitioners herein. Consequently, connected miscellaneous petitions are closed.

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25.09.2023

P. DHANABAL, J.



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