



Crl.O.P.(MD) No.14103 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2023

CORAM:

THE HONOURABLE DR.JUSTICE D.NAGARJUN

Crl.O.P.(MD) No.14103 of 2023

and

Crl.M.P.(MD)Nos.11054 and 11053 of 2023

1.Perumalsamy

2.Ranjithkumar

... Petitioners

Vs.

1.The Inspector of Police,
Vembakkottai Police Station,
Virudhunagar District.
(Cr.No.511 of 2018)

2.Persiyal

..Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the proceedings in C.C.No.196 of 2019 on the file of the learned Judicial Magistrate No.II, Sattur and quash the same.

For Petitioners

For R1

:Mr.S.Veerapandi Selvaraj

:Mr.S.S.Madhavan

Government Advocate (Crl.side)



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ORDER

This Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure seeking quashment of C.C.No.196 of 2019 on the file of the learned Judicial Magistrate No.II, Sattur.

2.The petitioners are the accused Nos.1 and 2 in CC.No.196 of 2019 pending on the file of the learned Judicial Magistrate No.II, Sattur, which was registered on a complaint given by the respondent No.2 for the offences punishable under Sections 353, 294(b) and 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. The respondent No.2 is stated to be the victim at the hands of the petitioners.

3.According to the prosecution, on 07.12.2018, when the defacto complainant/the Revenue Inspector intended to survey the land in S.Nos.221, 222, 223 and 224 as per G.O.No.540 at Salvarpatti, Sivakasi Circle, the accused persons have picked up quarrel, abused the defacto complainant in filthy language, gave life threat and compiled them to stop their work by creating hindrance, for which a case in Crime No.511 of 2018 was registered for the



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offences punishable under Sections 353, 294(b) and 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act.

4.The learned counsel for the petitioners has submitted that there is no material against the petitioners to proceed with the case and therefore, sought for quashment of the charge sheet and the charge sheet has been filed mechanically by completing the investigation and that the petitioners were falsely implicated in this case etc.

5.The learned Government Advocate (Crl.side) submits that as per the investigation done by the police, there are clear overt acts against all the accused and thereby the trial requires to be conducted.

6.When this Court has questioned the learned counsel for the petitioners as to why the petitioners have not challenged the charge sheet immediately after filing in the year 2019, there is no convincing reply. Further, even according to the petitioners, charges have been framed against the accused and summons were issued by fixing the trial schedule.



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7. On going through the charge sheet including the statements under Section 161 Cr.P.C., it is clear that there are overt acts against the petitioners. The Hon'ble Supreme Court has laid down the guidelines for exercising of inherent power under Section 482 of the Cr.P.C. for quashing the criminal proceeding in the case of *State of Haryana v. Bhajanlal* reported in *1992 SCC (Cri) 426*, which reads as follows:-

"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



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other materials, if any, accompanying the FIR 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."



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8.It is to be examined as to whether the facts of the case will fall in any one of the circumstances as held by the Hon'ble Apex Court to consider whether the case against the petitioners can be quashed.

9.It is not a case, where the petitioners are seeking quashment of the charge sheet on the ground that there is a statutory embargo in continuation of the proceedings. On going through the charge sheet, it is clear that the allegations levelled against the petitioners are not vague and that the statements of the witnesses are clearly against the petitioners. It is submitted further that the witnesses examined by the prosecution have given the false statements under 161(3) Cr.P.C.

10.On going through the contention of the petitioners and on considering the defense put forth by the petitioners, it cannot be decided at this stage as to which one of the versions is correct. Unless, the trial is conducted, the truth or otherwise of the statement of the witnesses cannot be appreciated. Therefore, it is a fit case, where the case has to be referred to the trial Court as there is *prima facie* material against the petitioners.



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11. Accordingly, this Criminal Original Petition is disposed of directing the trial Court to dispose of CC.No.196 of 2019 as quickly as possible, not later than 6 months from the date of receipt of a copy of this order and the personal appearance before the trial Court is dispensed with before the trial Court. However, the trial Court is at liberty to direct all the accused to be present for answering the charges, 313 examination and for any such purposes at any stage of the case for smooth progression of the trial. The prosecution is also directed to produce the witnesses as directed by the trial Court without fail. Consequently, connected Miscellaneous Petitions are closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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09.08.2023

To

- 1.The Judicial Magistrate No.II, Sattur.
- 2.The Inspector of Police,
Vembakottai Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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DR.D.NAGARJUN. J.

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