



Crl.O.P.(MD)No.14779 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **23.08.2023**

CORAM:

THE HONOURABLE DR.JUSTICE **D.NAGARJUN**

Crl.O.P.(MD) No.14779 of 2023
and
Crl.M.P.(MD).Nos.11680 & 11681 of 2023

Vignesh

... Petitioner

Vs.

1.The State represented by
the Inspector of Police,
Srirangam Police Station,
Trichy District.
(Crime No.146 of 2019)

2.Baskaran

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the charge sheet in S.T.C.No.252 of 2021, on the file of the learned Judicial Magistrate, Srirangam and quash the same.

For Petitioner
For R-1

: Mr.C.K.M.Appaji
: Mr..SS.Madhavan,
Government Advocate (Criminal Side)



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ORDER

This petition is filed under Section 482 of Cr.P.C., seeking for quashment of Charge Sheet in S.T.C.No.252 of 2021 on the file of the learned Judicial Magistrate, Srirangam, registered against the petitioner for the offence under Sections 294(b), 323 and 506(1) of I.P.C.

2. According to the prosecution, the defacto complainant, who is working as Tutition Teacher at Tuition Centre, Manachanallur, has collected huge amounts from various persons fro providing Government jobs and the same was handed over to one Stephen. However, the said Stephen has cheated the defacto complainant, failed to provide jobs and misappropriated the amount, for which a complaint is also given against the said Stephen by the defacto complainant. This being the fact, the petitioner has demanded the defacto complainant to return the money back and thereby gave life threat also and therefore, a case in Crime No. 146 of 2019 has been registered against the petitioner / sole accused for the offences punishable under Sections 294(b), 323 and 506(1) I.P.C. After completing the investigation, the respondent Police have filed the charge sheet in STC.No.252 of 2021 on the file of the learned Judicial Magistrate III, Trichy. Challenging the same, this petition is filed.



3. According to the learned counsel for the petitioner, even if the contents of charge sheet are accepted to be correct, no offence is made out against the petitioner for the offences alleged against him and though against one Veera, there is a strong material and the same was quashed on the ground that there was no limitation. It is submitted that the investigating agency has deliberately filed the charge sheet against the petitioner and the allegations against the petitioner are vague and the petitioner himself is the victim and therefore, sought for suitable directions.

4. The learned Government Advocate (Criminal Side) has submitted that as per the investigation done by the Police, there are clear overt acts against the accused and thereby the trial requires to be conducted.

5. 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 petitioner. 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 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."

6. 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.



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7. 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 petitioner are not vague and that the statements of the witnesses are clearly against the petitioner. It is submitted further that the witnesses examined by the prosecution have given the false statements under 161(3) Cr.P.C.

8. On going through the contention of the petitioner and on considering the defence put forth by the petitioner, 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.

9. This case was taken on file in the year 2021, but the petitioner has approached this Court in the year 2023 seeking quashment when the matter is posted for trial. No reason is explained as to why



delay has occurred in approaching this Court. It is also on record that he has not challenged the framing of charges against the petitioner.

10. Accordingly, this Criminal Original Petition is disposed of directing the trial Court to dispose of S.T.C.No.252 of 2021 as quickly as possible. However, the trial Court is directed to expedite the trial and the presence of the petitioner is dispensed with during the course of trial. The learned Judicial Magistrate, Srirangam, is at liberty to direct the petitioner to appear before the Court at any time for answering charges including 331 Cr.P.C., examination if any and for any charges for the smooth progression of the case. Consequently, the connected miscellaneous petitions are closed.

23.08.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

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To

1.The Judicial Magistrate, Srirangam.

2.The Inspector of Police,
Srirangam Police Station,
Trichy 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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