



*Crl.O.P.(MD) No.14941 of 2023*

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2023

CORAM:

THE HONOURABLE DR.JUSTICE D.NAGARJUN

**Crl.O.P.(MD) No.14941 of 2023**

**and**

**Crl.M.P.(MD)Nos.11833 and 11834 of 2023**

1.Chinnamadasamy

2.Johnson Selvakumar @ Kumar

3.Balagurusamy @ Suresh

4.Thamilarasan

5.B.Bala Murugan

... Petitioners

Vs.

1.The State of Tamilnadu  
represented by its Inspector of Police,  
Kovilpatti East Police Station,  
Thoothukudi District.  
(Cr.No.46 of 2023)

2.Parthasarathi

..Respondents



*Crl.O.P.(MD) No.14941 of 2023*

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PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records from the Learned Judicial Magistrate Court No.1, Kovilpatti, in S.T.C.No.825 of 2023 and to quash the same as it has no prima facie case against the petitioners.

For Petitioners :Ms.M.Maria Vinola  
For R1 :Mr.E.Antony Sahaya Prabahar  
Additional Public Prosecutor

### **ORDER**

This Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure seeking quashment of S.T.C.No.825 of 2023 on the file of the learned Judicial Magistrate Court No.1, Kovilpatti, cognizance of which was taken against the petitioners for the offences punishable under Sections 147, 341, 353, 294(b) and 352 IPC.

2.It is submitted by the learned counsel for the petitioners that all the allegations levelled against the petitioners, who are daily labourers, are incorrect. All the witnesses shown in the charge sheet are inimically disposed of and they have given false statements. Hence, sought for quashment of charge sheet.



Crl.O.P.(MD) No.14941 of 2023

WEB COPY

3.The learned Additional Public Prosecutor on the other hand submits that there are clear and direct overt acts against all the petitioners/accused in respect of all the offences alleged. He has also read the statements in the Court. ingredients for all the offences alleged against the petitioners and other accused. It is submitted further that the charges have been framed and the matter is posted for trail and summons have been issued for examination of L.W1 to L.W3 on 13.09.2023.

4.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



*Crl.O.P.(MD) No.14941 of 2023*

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(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



*Crl.O.P.(MD) No.14941 of 2023*

WEB COPY

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."

5. On considering the grounds, on which the petitioners are seeking quashment, it is clear that the petitioners' case will not fall under any one of the circumstances to quash the case. The petitioners are seeking quashment purely on the ground that the witnesses have given false statements. Whether the witnesses have stated false, whether the defense of the petitioners is correct and can be accepted are the questions of fact, which this Court cannot consider under Section 482 Cr.P.C., This Court cannot conduct mini trial to decide whether the witnesses have given false statement under Section 161(3) Cr.P.C., Accordingly, this Petition is disposed of, as there are no merits in this case.



*Crl.O.P.(MD) No.14941 of 2023*

WEB COPY

6.Considering the request made by the learned counsel for the petitioners, the presence of the petitioners is dispensed with during the course of trial, however, the trial Court is at liberty to direct the petitioners to appear before the Court for answering the 313 Cr.P.C., examination or any such purposes for smooth progression of trial. Consequently, connected Miscellaneous Petitions are closed.

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

**28.08.2023**

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To

1.The Judicial Magistrate No.1, Kovilpatti.

2.The Inspector of Police,  
Kovilpatti East Police Station,  
Thoothukudi District.

3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

6/7



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*Crl.O.P.(MD) No.14941 of 2023*

**DR.D.NAGARJUN. J.**

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**Crl.O.P.(MD)No.14941 of 2023**

**28.08.2023**