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Crl.O.P.(MD)No.15061 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.08.2023**

CORAM:

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

Crl.O.P.(MD) No.15061 of 2023
and Crl.M.P(MD).No.11931 of 2023

Aravind

... Petitioner

Vs.

1.The Inspector of Police,
Ilayankudi Police Station,
Ilayankudi,
Sivagangai District.
Crime No.259 of 2019.

2.Selvakumar

..Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the charge sheet in C.C.No.4 of 2021 on the file of the learned Judicial Magistrate, Ilayangudi and quash the same.

For Petitioner : Mr.C.Jeganathan

For Respondent : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



ORDER

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This Criminal Original Petition is filed seeking quashment of charge sheet in C.C.No.4 of 2021 which is registered against the petitioner/A6 and other accused on the file of the learned Judicial Magistrate, Ilayangudi, for the offence punishable under Sections 147, 148, 427, 294(b), 324, 506(2) and 325 IPC.

2. The learned counsel appearing for the petitioner has submitted that there are no overtacts specifically against the petitioner and a complaint given by the petitioner has not been charge sheeted so far. It is further submitted by the learned counsel appearing for the petitioner that the petitioner is working in a private bank and the charges have already been framed.

3. The learned Additional Public Prosecutor appearing for the official respondents submits that as per the statements of witnesses, there are direct overtacts against the petitioner stating that the petitioner and the other accused have hit the injured on his head and the petitioner was holding the stone on his hand.



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4. 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



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vengeance on the accused and with a view to spite him due to private and personal grudge."

5. 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 petitioner can be quashed.

6. It is not a case, where the petitioner is 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 petitioners. It is submitted further that the witnesses examined by the prosecution have given the false statements under 161(3) Cr.P.C.

7. 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



petitioner.

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8. Accordingly, this Criminal Original Petition is disposed of directing the trial Court to dispose of CC.No.4 of 2021 as quickly as possible. Since it is submitted by the learned counsel appearing for the petitioner that the petitioner is working in a private bank and the charges have already been framed, the presence of the petitioner during the course of trial is dispensed with. 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. Consequently, connected Miscellaneous Petition is closed.

Index : Yes/No
Internet : Yes/No
ssb

29.08.2023

To
1.The Inspector of Police,
Ilayankudi Police Station,
Ilayankudi,



Crl.O.P.(MD)No.15061 of 2023

Sivagangai District.

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



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DR.D.NAGARJUN. J.

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