



Crl.O.P.(MD).No.15468 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

Crl.O.P.(MD).No.15468 of 2019

and

Crl.M.P(MD) Nos.9179 and 9180 of 2019

1. Atheeswaran

2. Kesavan

3. Jeyaseelan

4. Gangatharan

... Petitioners

Vs.

1. The Inspector of Police
Athiramapattinam Police Station,
Thanjavur District

2. Pannerselvan
The Special Sub Inspector of Police
Athiramapattinam Police Station,
Thanjavur District

..Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in P.R.C. No.39 of 2019 pending on the file of the learned Judicial Magistrate, Pattukottai and quash the same in so far as the petitioners are concerned.

For Petitioners : Mr.V. Kathirvelu, Senior Counsel
for Mr.J.Anand kumar

For R-1& R2 : Mr.R.M.Anbunithi
Additional Public Prosecutor



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ORDER

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This Criminal Original Petition has been filed to quash the proceedings in P.R.C. No.39 of 2019 pending on the file of the learned Judicial Magistrate, Pattukottai.

2. According to the petitioners, the case of the prosecution is that on 01.05.2018 at about 8.45 a.m., when the defacto complainant went to the Manjavayal Village to arrest the accused persons in connection with Crime No.96 of 2018, the petitioners along with other accused formed an unlawful assembly armed with deadly weapons and prevented the defacto complainant from discharging his official duty and tried to assault him, however the defacto complainant did not suffer any injuries. The petitioners and other accused said to have caused damage to the tube lights and the vehicle belonging to the defacto complainant. Infact no such occurrence had taken place as alleged by the defacto complainant and a false case has been filed as against the petitioners and others. Even as per the averments the offences will not attract and the averments are not specific and vague one. Even according to the prosecution in a murder case, the Inspector has to conduct investigation and there is no role for Sub Inspector of Police to go to the place of occurrence to secure the accused. Even according to the statement recorded by the police officer during investigation the occurrence is



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inherently improbable and unbelievable. The petitioners and other have been falsely robed in this case, hence proceedings in PRC No.39 of 2019 is liable to be quashed.

3. The learned counsel for the petitioners would submit that the respondent police has registered the First Information Report in Crime No.97 of 2018 with false allegations and the same was also investigated by the first respondent and the case has been taken on file in P.R.C. No.39 of 2019. The defacto complainant has no role in the double murder case to secure the accused and further the allegations in the First Information Report and the statement are vague and there is no mention about the value of damage of properties and the 161(3) statements repeated the same facts without any change and thereby it is clear that the statement is nothing but cut, copy and paste and typed by same version. Hence the petitioners need not face the trial for the vague averments made in the charge sheet, hence the Charge Sheet is liable to be quashed.

4. The learned Additional Public Prosecutor appearing for the first respondent would submit that based on the complaint given by the second respondent, the first respondent has registered the First Information Report in Crime No.97 of 2018, investigated the case and filed final report and the same was taken on file in PRC No.39 of 2019.



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The offences are grave in nature and the damage of the property is mentioned as Rs.1000/- and thereby these petitioners have to face trial and this Court cannot look into the veracity of the statements and thereby this petition is liable to be dismissed.

5. Heard both sides and perused the materials available on record.

6. On perusal of the records, it is observed that the First Information Report has been registered for the offences under Section 147,148,294(b),353,427 and 307 of IPC. The complainant is none other than the Sub Inspector of Police. According to the petitioner, the defacto complainant alleged that he went to the place of occurrence to arrest some of the accused in connection with the double murder case, but he is not the competent person to arrest the accused in connection with the murder case. This aspect cannot be gone into at this stage by this Court and it could be decided during trial. The offences charges against the petitioners are grave in nature and as per the guidelines issued by the Hon'ble Apex Court in the case of ***Neeharika Infrastructure Pvt Ltd vs. State of Maharastra and Others*** reported in ***2021 SCC Online SC 315***, this Court is not inclined to allow the petition at this stage and hence the petition is liable to be dismissed. The petitioners can agitate the grounds raised in this petition before the trial Court.



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7. Accordingly this Criminal Original Petition stands dismissed.

It is represented by both parties the case is under PRC stage and not reached the stage of framing charges. If no prima facie materials as against the petitioners, it is for the petitioners to approach the trial Court for filing discharge petition and the same may be dealt with by the concerned trial Court in accordance with law on merits. Consequently connected miscellaneous petitions are also closed.

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Index : Yes / No
Internet : Yes / No
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To

1. The Judicial Magistrate, Pattukottai

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. The Inspector of Police
Athiramapattinam Police Station,
Thanjavur District

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



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P.DHANABAL, J.

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