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CRL.OP.(MD)No.18807 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 17.11.2022

DELIVERED ON : 13.06.2023

CORAM

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.OP.(MD)No.18807 of 2022

and

CRL.MP(MD).Nos. 12663 & 12664 of 2022

R.Senkathir Selvan

: Petitioner/Sole Accused

Vs.

1. State Rep. By

The Inspector of Police,
Pudukkottai Town Police Station,
Pudukkottai District.

(Crime No.212 of 2018)

: 1st Respondent/Complainant

2. Krishnamoorthi

: 2nd Respondent/De-facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the impugned Charge Sheet dated 15.06.2019 in C.C.No.125 of 2019 on the file of the learned Judicial Magistrate No.I, Pudukkottai and quash the same.

For Petitioner

: Mr.R.Murugan

For Respondents

: Mr.R.Sivakumar

Government Advocate for R1

: Mr.G.Mathavan for R2

ORDER



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This Criminal Original Petition has been filed to quash the impugned Charge Sheet dated 15.06.2019 in C.C.No.125 of 2019 on the file of the learned Judicial Magistrate No.I, Pudukkottai

2. The learned Counsel for the Petitioner submitted that the Petitioner was in the business of selling fertilizers. As per the Complaint given by the second Respondent, the Petitioner is alleged to have purchased fertilizers from the second Respondent for the amount of Rs.7,00,000/-. 40 tons of cost under invoice 865 and 866, he had not paid the amount to the De-facto Complainant. On the query by the De-facto Complainant/second Respondent, the Petitioner is alleged to have informed him that he will pay the dues through RTGS, but had not transferred the money to the account of the second Respondent. Instead, on repeated reminders, the Petitioner is alleged to have used filthy language against the second Respondent and threatened him and thereby, avoiding the payment of the amount to the second Respondent. Therefore, the second Respondent was forced to file a Complaint against the Petitioner. It is the contention of the learned Counsel for the Petitioner that the fertilizers are sold after getting permission from the District Agriculture Office. The second Respondent had used influence and registered the case against the Petitioner. The Investigation Officer had



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without following the procedure regarding the permission to be obtained from the Deputy Agriculture Officer concerned, he mechanically filed a Complaint. Therefore, the Petitioner approached this Court seeking to quash the charge sheet and FIR.

3. The learned Additional Public Prosecutor vehemently objected and stating that as per the reported ruling of the Hon'ble Supreme Court in **1992 Supp (1) SCC 335:1992 SCC (cri) 426** in the case of **State of Haryana Vs. Bhajanlal**, while exercising extraordinary powers by this Court under Section 482 of Cr.P.C., to be used sparingly and not leniently. Therefore, they shall be slow in particularly pending investigation cases. Therefore, the learned Additional Public Prosecutor vehemently objected to the quashing of the charge sheet in C.C.No.125 of 2019.

4. The learned Counsel for the second Respondent submitted that the Petition is not maintainable as the De-facto Complainant had given details of the Complaint. Based on which, cognizable offence was attracted against the Petitioner. Therefore, the Police had registered a case. This Petition lacks merits and is to be dismissed. What are all raised by the Petitioner is the subject matter to be considered as a valuable defence before the trial



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Court during trial and not at this stage while this Court exercising extraordinary powers under Section 482 of Cr.P.C. Therefore, this Petition is to be dismissed.

5. On perusal of the remarks, dated 11.11.2022, offered by the learned Judicial Magistrate No.I, Pudukkottai, charges were framed on 08.06.2022 and the case was posted for trial on 08.08.2022. On 08.08.2022 trial commenced. On 03.10.2022 witnesses L.W-1 to L.W-5 were present and examined as P.W-1 to P.W-5. Therefore, the trial had already commenced. Under the guidelines issued by the Hon'ble Supreme Court in the case of ***State of Haryana -vs- Bhajan Lal*** reported in ***1992 Suppl.(1) SCC 335*** wherein guidelines were issued to the High Courts that when trial had commenced the powers under Section 482 of Cr.P.C., shall not be exercised leniently and it should be used only sparingly. In the light of the above guidelines, when the trial had already commenced and the witnesses on the side of prosecution had been examined, it is not a fit case for quashing the charge sheet. What had been argued by the learned Counsel for the Petitioner is to be treated as valuable defence available to the Petitioner only before the trial Court and this Court exercising the power under Section 482 of Cr.P.C. cannot consider those defence before this Court. As



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rightly pointed out by the learned Counsel for the De-facto Complainant/second Respondent and the learned Additional Public Prosecutor, it is not a fit case for quashing the charge sheet. Hence, the point for consideration is answered in favour of the Prosecution and against the Petitioner.

In the result, **this Criminal Original Petition is dismissed.**

The Petitioner is directed to cooperate with the trial. The learned Judicial Magistrate No.I, Pudukkottai, is directed to dispose of the case on merits and in accordance with law. If the Accused does not co-operate with the Court for disposal of the case, the learned Judicial Magistrate No.I, Pudukkottai, shall act as per the reported ruling of the Hon'ble Supreme Court in *P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]* thereby directing the Investigation Officer to file appropriate petition for cancellation of bail. On execution of the warrant, if the Accused is produced before the Court, the Accused shall be detained in prison till the case is disposed. Consequently, connected miscellaneous petitions are closed.

13.06.2023

Index: Yes/No
Internet: Yes/No
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SATHI KUMAR SUKUMARA KURUP, J.

dh/srm

To

1. The Judicial Magistrate No.I,
Pudukkottai.
2. The Inspector of Police,
Pudukkottai Town Police Station,
Pudukkottai District.
3. The Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in

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13.06.2023