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Crl.O.P.(MD)No.1610 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.01.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

Crl.O.P.(MD) No.1610 of 2022

and

Crl.M.P.(MD).Nos.1155 & 1157 of 2022

Dharmaraj

... Petitioner / Sole Accused

Vs.

1.The State through
the Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
(Crime No.466 of 2018)

2.Suntharalinkam,
Sub Inspector of Police,
Marthandam,
Kanyakumari District.

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records and quash the proceedings in S.T.C.No.316 of 2020 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District.

For petitioner

: Mr.Kathirvelu

Senior Counsel

for Mr.K.Jeyamohan

For R-1

: Mr.P.Kottaichamy

Government Advocate

(Criminal Side)



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ORDER

This petition has been filed seeking to quash the proceedings in S.T.C.No.316 of 2020 pending on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District.

2. The case of the prosecution is that there was a construction of new bridge in Kanyakumari District and permission was granted to the public to visit the bridge only at about 04.00 P.M. to 07.00 P.M. It is alleged that on 10.11.2018, at about 07.30 P.M., when the petitioner attempted to enter the bridge, the second respondent / *defacto* complainant has stated that the permission time got over. But the petitioner herein refused to move and abused the *defacto* complainant in filthy language and pushed him with hands. Hence, the *defacto* complainant made a complaint before the first respondent Police and the respondent Police registered a case in Crime No.466 of 2018 against the petitioner and on completion of investigation, the charge sheet has been filed by the respondent Police before the learned Judicial Magistrate No.I, Kuzhithurai and the learned Judicial Magistrate has taken cognizance in S.T.C.No.316 of 2020 for the alleged offence punishable under Sections 352 and 294(b) of I.P.C.



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3. The learned counsel appearing for the petitioner would submit that a false case has been foisted against the petitioner and there is no specific allegation as against the petitioner.

4. The learned Government Advocate (Crl. Side) would submit that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioner have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5. In the above circumstances, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioner, if he is subjected to due trial as sufficient opportunity would be given to the petitioner to put forth his defence. The petitioner cannot be let by quashing the charges framed against him as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against him. Useful reference in this regard can be made to the decision of the Hon'ble Apex Court in

State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)



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6. For the reasons aforesaid, this Court finds no ground or scope to quash S.T.C.No.316 of 2020, pending on the file of the learned Judicial Magistrate No.I, Kuzhithurai. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

7. The learned counsel appearing for the petitioner would submit that this Court may consider to dispense with the personal appearance of the petitioner before the court below. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

31.01.2024

Index : Yes/No
Internet : Yes/No
TSG



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To

1. The Judicial Magistrate No.I, Kuzhithurai.

2. The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.

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

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M.DHANDAPANI. J.

TSG

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