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Crl.O.P.(MD) No.416 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2024

CORAM

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CRL.O.P (MD) No.416 of 2023
and
CRL.M.P (MD) Nos.335 and 336 of 2023

1. Michael Raj @ Kaduva

2. Jeba

... Petitioners

Vs

1. The Inspector of Police,
Karungal Police Station,
Kanyakumari District.
(Crime No.673/2012).

2. Anitha,
Sub Inspector of Police,
Karungal Police Station,
Kanyakumari District.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for records in PRC No.78/2022 the file of the learned Judicial Magistrate Court, Eraniel and to quash the same as against the petitioners.



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For Petitioners : Mr.Herold Singh S C,
For R1 : Mrs.M.Aasah
Government Advocate (Crl. side)
For R2 : No Appearance

ORDER

This criminal original petition has been filed seeking to quash the proceedings in PRC No.78/2022 the file of the learned Judicial Magistrate Court, Eraniel.

2.The allegation as against the petitioners is that on 24.11.2012, while the police party was in routine night rounds, near kappiparai Vaikal Karai Perunthottathuvillai, at 00.45 hours, the respondent police have intercepted a tempo bearing Registration No.TN 75 E 7893 and enquired the accused regarding the reasons for transporting red soil. Enraged over the same, four persons, who were in the vehicle have abused the respondent police using filthy language, the first accused has attacked the Head Constable, namely, John Sathyadas on his left side cheek using a torch light, the second accused by using a small stick, has attacked another Head Constable, namely, Ponnudas, on his leg and others have threatened the respondent police with



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dire consequences. The driver and the cleaner of the vehicle, who were arrayed as third and fourth accused, have attempted to dash against the respondent police. Thereby, they have attempted to kill the police party. Based on the complaint of the second respondent, the present case has been registered, for which, after completion of investigation, final report has been filed as against the accused persons for the offences under Sections 294(b), 332, 307 and 379 IPC and Sections 4(i), 4(ii) I(A) r/w Section 21 of Mines and Minerals (Development & Regulation) Act, 1957. Aggrieved over the same, this petition has been filed.

3.The learned Counsel appearing for the petitioners submits that the occurrence was taken place in the year 2012 and the cognizance was taken only in the year 2022. There is no reason stated by the respondent police for long delay in concluding the investigation. He further submits that the petitioners are falsely implicated in this case and there is no such occurrence taken place as stated in the final report.

4.*Per contra*, the learned Government Advocate (CrI.Side) submits that the occurrence had taken place at night time and the petitioners have



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been identified by the police party immediately after the occurrence and after investigation, final report was filed. However, due to some misplacement of records, cognizance has been taken place belatedly. She further submits that in this case, the offences are serious in nature and has no limitation prescribed to take cognizance. Accordingly, the criminal proceedings as against the petitioners maintainable.

5.This Court has considered the rival submissions made and perused the records.

6.It is disputed by the petitioners that the occurrence has not been taken place and that they have been falsely implicated in this case. However, the prosecution has relied on the Accident Register of injured, which shows that in the said occurrence, two members of the police party have sustained injuries and the Doctor, who has treated them, was also examined as witness and his statement also shows that immediately after the occurrence, the injured were examined by the Doctor.

7.On perusal of the statements of the other witnesses, this Court feels that there are grounds to proceed as against the accused for the offence



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under Sections 294(b), 332, 307 and 379 IPC and Sections 4(i), 4(ii) I(A) r/w Section 21 of Mines and Minerals (Development & Regulation) Act, 1957. Even though it is submitted that there is a long delay in taking cognizance, on perusal of record, it is seen that the final report was filed as early as on 10.10.2013 and the learned Judicial Magistrate, Eraniel has subscribed his signature indicating date of receipt of the final report. Now, the case is committed to the Sub-Court, Eraniel and numbered as S.C.No. 191 of 2024 and posted for trial.

8.Since ample oral statement and documentary proof are available and truth or otherwise could be revealed only after the examination of the witnesses. At this stage, this Court is not inclined to quash the proceedings. Accordingly, this criminal original petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

15.07.2024

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

LR

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To

1. The Inspector of Police,
Karungal Police Station,
Kanyakumari District.

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



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K.RAJASEKAR, J.

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