



Crl.O.P.(MD)No.1679 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD) No.1679 of 2022 and
Crl.M.P.(MD).Nos.1218 and 1266 of 2022

1.N.Kusalavan
2.K.Thilagavathi

... Petitioner/Accused 1 & 2

Vs.

Gopalakrishnan

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in C.C.No.53 of 2021, on the file of the learned Judicial Magistrate, Melur and quash the same.

For petitioner : Mr.S.Ramasamy

For R-1 : No Appearance

ORDER

This petition has been filed seeking to quash the charge sheet in C.C.No.53 of 2021 filed for the offence punishable under Sections 147, 130, 465, 506(i), 120A, 420 and 435 IPC on the file of the learned Judicial Magistrate, Melur.



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2. The case of the prosecution is that the petitioners in the capacity of President of the Farmers Association and Village Forest Council respectively, along with others, though they are not the owners of any of the land/kanmois, executed sale agreements/sale deeds to sell the property ie., lands and kanmois around their village and also threatened the local public and hence, a complaint has been preferred by the respondent; a case has been registered in Crime No.4/2013 and earlier the petitioners filed petition before this Court to quash the FIR and the said petition was dismissed on the ground that the FIR was closed as Mistake of Fact. Subsequently, on the private complaint given by the respondent, the trial court has taken cognizance of the complaint in C.C.No.53/2021 under Sections 147, 130, 465, 506(i), 120A, 420 and 435 IPC, for quashing the same, the petitioners are before this court.

3. The learned counsel for the petitioners would submit that there are no materials whatsoever available with the respondent to show that the petitioners have indulged in selling of the property. In the absence of any documents, the complaint itself seems to be preferred with ulterior motive in order to implicate the petitioners. He would further submit that merely because the respondent files a complaint, it does not mean that the



petitioners have indulged in the alleged act of selling the public property and that the petitioners have nothing to do with the alleged and they have been falsely implicated. Hence, on these grounds, he prays for allowing this petition.

4. The learned Government Advocate (Crl. Side) would submit that there are materials available to proceed with the case as against the petitioners herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioners 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 petitioners, if they are subjected to due trial as sufficient opportunity would be given to them to put forth their defence. The petitioners cannot be let by quashing the charges framed against them 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 had to the decision of the Hon'ble Apex Court in *State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)*



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wherein, the Hon'ble Apex Court held as under :

“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 extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, which we have extracted 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 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 F.I.R. 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 vengeance on the accused and with a view to spite him due to private and personal grudge.”

6. For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.53 of 2021, pending on the file of the learned Judicial Magistrate, Melur. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petitions



are dismissed.

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7. The learned counsel appearing for the petitioners submitted that this Court may consider dispensing with the personal appearance of the petitioners before the court below. Taking into consideration the request as made by the learned counsel for the petitioners, the appearance of the petitioners before the trial court is dispensed with except for their 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 petitioners is necessary, the trial court, at its wisdom, shall direct their appearance on those days.

23.01.2024

Index : Yes/No

Internet : Yes/No

RR

To

1. The Judicial Magistrate, Melur

2. The Inspector of Police,
Melavalavu Police Station,
Melur, Madurai.

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



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M.DHANDAPANI. J.

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