



Crl.O.P.(MD)No.1199 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **31.01.2024**

CORAM:

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

Crl.O.P.(MD) No.1199 of 2022

and

Crl.M.P.(MD).Nos.860 & 861 of 2022

1.Cyril Francis

2.Joswa

... Petitioners

Vs.

1.The State through
the Sub Inspector of Police,
Asaripallam,
Kanyakumari District.
(In Crime No.166 of 2018)

2.D.Lathi Jenil Jose

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the proceedings in the charge sheet in C.C.No.185 of 2019 on the file of the learned Judicial Magistrate No.I, Nagercoil in Crime No.166 of 2016 on the file of the first respondent Police for the offence under Sections 294(b), 323, 324, 342 and 506 (ii) of I.P.C. dated 06.06.2016 and quash the same in respect of the petitioners as illegal.

For petitioners

: Mr.G.Anto Prince

For R-1

: Mr.S.Manikandan
Government Advocate
(Criminal Side)



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ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.185 of 2019 on the file of the learned Judicial Magistrate No.I, Nagercoil.

2. The case of the prosecution is that due to family dispute between the petitioners and the second respondent / *defacto* complainant, the petitioners herein abused the second respondent in filthy language and attacked him by using gardening tools. Hence, the second respondent made a complaint before the first respondent Police and the first respondent Police registered a case in Crime No.166 of 2016 against the petitioners and the respondent Police conducted the investigation and on completion of investigation, the charge sheet has been filed by the respondent Police before the learned Judicial Magistrate No.I, Nagercoil and the learned Judicial Magistrate has taken cognizance in C.C.No.185 of 2019 for the alleged offence punishable under Sections 294(b), 323, 324, 342 and 506 (ii) of I.P.C.

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



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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 the petitioners 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 them. 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)***

6. For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.185 of 2019, pending on the file of the learned Judicial Magistrate No.I, Nagercoil. Accordingly, this Criminal Original



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Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

7. The learned counsel appearing for the petitioners would submit that this Court may consider to dispense 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.

31.01.2024

Index : Yes/No
Internet : Yes/No
TSG

To
1.The Judicial Magistrate No.I, Nagercoil.

2.The Sub Inspector of Police,
Asaripallam,
Kanyakumari District.



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



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M.DHANDAPANI. J.

TSG

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