



Crl.O.P.(MD)No.546 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2024

CORAM

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CRL.OP.(MD)No.546 of 2023

and

CRL.MP.(MD)Nos.505 & 506 of 2023

Arun

... Petitioner

Vs.

1.State Rep. by,
The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City,
Tirunelveli.
(In Crime No.94/2013)

2.Dr.Maraikumar Selvaraj

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the impugned charge sheet in P.R.C.No.58 of 2017, on the file of the learned Judicial Magistrate Court No.I, Tirunelveli and quash the same as illegal.

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For Petitioner : Mr.A.Rajaram

For Respondent No.1 : Mrs.M.Aasha

Government Advocate [Crl. Side]

O R D E R

This Criminal Original Petition has been filed, invoking Section 482 of Cr.P.C., to call for the records pertaining to P.R.C.No.58 of 2017, on the file of the learned Judicial Magistrate Court No.I, Tirunelveli and to quash the same.

2.The allegation against the petitioner is that he was a student of Yovan college, Tirunelveli and on 30.01.2013, at about 08.45 a.m., this petitioner along with 20 other students assembled and protested against the non-permission accorded for writing the semester exam, on the ground of non-sufficient attendance of classes. Subsequently, their assembly became unlawful and they started damaging various properties of the college including notice board, CCTV cameras, windshield of the car belonging to the Principal, water pipe lines and motors, thereby caused damage to the tune of Rs.2 Lakhs.



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3.Based on the complaint lodged by the Principal, a criminal case was registered against 20 persons including the petitioner in Crime No.94 of 2013 on 31.01.2013 and after investigation, a final report was also filed against the 20 students who participated in the incident on that day. The learned Judicial Magistrate No.I, Tirunelveli, took cognizance of the offence and issued the process against the petitioner. Aggrieved over the same, the petitioner has approached this Court with the present petition.

4.Learned Counsel for the petitioner submitted that the petitioner was a student and since no proper attendance was maintained by the college, these petitioners have sought for certain relaxation in the attendance rules and requested to allow them for write the exam and it was not accepted by the college management, thereby they have only protested but taking note of the above situation, some of the persons from outside have entered into the college premises and ransacked the properties of the college and the petitioner has not participated in any of the offence as alleged and his name is falsely implicated and hence, prays for quashing the proceedings.



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5. Per contra, learned Government Advocate [Crl. Side] submits that the petitioner is a named accused and in the FIR also there is a specific overt act attributed against him for damaging the college properties and various statements recorded from the witnesses shows that he actively participated in the incident and prays to proceed against him and for dismissal of this petition.

6. I have considered the submissions made by both sides and perused the materials available on record.

7. The inherent jurisdiction of the Court under Section 482 Cr.P.C is well settled. Recently in ***Pramod Suryabhan Pawar Vs. State of Maharashtra and another*** reported in ***(2019) 9 SCC 608***, the Hon'ble Apex Court has reiterated the legal position in the following manner:

"6. Section 482 is an overriding section which saves the inherent powers of the court to advance the cause of justice. Under Section 482 the inherent jurisdiction of the court can be exercised (i) to give effect to an order under CrPC; (ii) to prevent the abuse of the process of the court; and (iii) to otherwise secure the ends of justice. The powers of the court under Section 482 are wide and the court is vested with a significant amount of discretion to decide whether or not to



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exercise them. The court should be guarded in the use of its extraordinary jurisdiction to quash an FIR or criminal proceeding as it denies the prosecution the opportunity to establish its case through investigation and evidence. These principles have been consistently followed and reiterated by this Court. In Inder Mohan Goswami v. State of Uttaranchal [Inder Mohan Goswami v. State of Uttaranchal, (2007) 12 SCC 1 : (2008) 1 SCC (Cri) 259] , this Court observed : (SCC p. 10, paras 23-24)

“23. This Court in a number of cases has laid down the scope and ambit of courts' powers under Section 482 CrPC. Every High Court has inherent powers to act ex debito justitiae to do real and substantial justice, for the administration of which alone it exists, or to prevent abuse of the process of the court. Inherent power under Section 482 CrPC can be exercised:

- (i) to give effect to an order under the Code;*
- (ii) to prevent abuse of the process of the court,*
and
- (iii) to otherwise secure the ends of justice.*

24. Inherent powers under Section 482 CrPC though wide have to be exercised sparingly, carefully and with great caution and only when exercise is justified by the tests specifically laid down in this section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the court would be justified in preventing injustice by invoking inherent powers in absence of specific provisions in the statute.”

7. Given the varied nature of cases that come before the High Courts, any strict test as to when the court's extraordinary



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powers can be exercised is likely to tie the court's hands in the face of future injustices. This Court in State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] conducted a detailed study of the situations where the court may exercise its extraordinary jurisdiction and laid down a list of illustrative examples of where quashing may be appropriate. It is not necessary to discuss all the examples, but a few bear relevance to the present case. The Court in Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] noted that quashing may be appropriate where : (SCC pp. 378-79, para 102)

"102. ... (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 FIR 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).

(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."

8. *In deciding whether to exercise its jurisdiction under Section 482, the Court does not adjudicate upon the veracity of the facts*



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alleged or enter into an appreciation of competing evidence presented. The limited question is whether on the face of the FIR, the allegations constitute a cognizable offence. As this Court noted in Dhruvaram Murlidhar Sonar v. State of Maharashtra, [(2019) 18 SCC 191 : 2018 SCC OnLine SC 3100], (Dhruvaram Sonar) : (SCC para 13)

“13. It is clear that for quashing the proceedings, meticulous analysis of factum of taking cognizance of an offence by the Magistrate is not called for. Appreciation of evidence is also not permissible in exercise of inherent powers. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken, it is open to the High Court to quash the same in exercise of its inherent powers.” "

8.On perusal of the statements recorded from various persons including the Principal and various teachers would reveal that the petitioner herein is named in the statements and more particularly, there is an allegation that this petitioner threw stones on the college properties and damaged them. He is also a member of the unlawful assembly and he cannot claim that he was only a participant in the protest and some other persons have damaged the properties.

9.Since he is a member of the unlawful assembly, Section 149 of IPC also attracts. Further, a specific overt act of damaging the college properties is also attributed against him. Hence, I am of



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the view that the petitioner has not made out any case for quashing the proceedings. Hence, this petition is liable to be dismissed. The trial Court is directed to initiate necessary process to secure the appearance of all the accused and commit the case at the earliest.

10.Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

15.07.2024

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



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To

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1.The Judicial Magistrate No.I,
Tirunelveli.

2.The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City,
Tirunelveli.

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



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K.RAJASEKAR,J

MR

Order made in

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