



Crl.O.P.(MD)No.987 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.987 of 2022
and
Crl.M.P.(MD).Nos.703 & 704 of 2022

1.Delfi

2.Rejina

3.Thangaraj

4.Muthuraj

5.Prakash

... Petitioners/Accused Nos.2 to 6

Vs.

1.The State through
the Inspector of Police,
Alwarkurichi Police Station,
Tirunelveli District.
Now Tenkasi District.
(Crime No.127 of 2019)

2.Gopala Krishna Nair

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in S.C.No.541 of 2021, on the file of the learned Principal District Judge, Tirunelveli and to quash the charge under Section 3(1) of TN Public Property (Prevent of Damage and Loss) Act, 1992, as against the petitioners / Accused Nos.2 to 6.



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For petitioners : Mr.C.Saravanakumar
For R-1 : Mr.B.Namibselvan,
Additional Public Prosecutor
For R-2 : Mr.K.Suyambulinga Bharathi

ORDER

This petition has been filed seeking to quash the case in S.C.No.541 of 2021, on the file of the learned Principal District Judge, Tirunelveli.

2. The case of the prosecution is that the petitioners damaged the *defacto* complainant's friend car. When the *defacto* complainant asked the petitioners about the damage, the petitioners herein abused the *defacto* complainant with filthy language and also threatened him with dire consequences. Hence, the *defacto* complainant made a complaint before the respondent Police and the respondent Police registered a case in Crime No.127 of 2019 against the petitioners for the alleged offences punishable under Sections 147, 294(b), 323 and 506(ii) of I.P.C., and Section 3(1) of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992 and thereafter, the respondent Police conducted the investigation and filed a charge sheet in S.C.No.541 of



2021 before the learned Principal District Judge, Tirunelveli.

Challenging the same, the present petition has been filed.

3. The learned counsel appearing for the petitioners would submit that neither substantial witnesses nor the evidence has been let in by the Investigating Officer before filing the charge sheet, which shows that the Investigation Officer has not conducted the investigation properly.

4. The learned Additional Public Prosecutor, appearing for the first respondent submitted that the first respondent has conducted a fair investigation and after examining the necessary witnesses and collecting all materials, he has filed the final report, which has been taken cognizance of by the court below.

5. Heard the learned counsel appearing for the second respondent / *defacto* complainant.

6. Time and again, this Court as well as the Supreme Court has cautioned the courts about the necessary precautions to be taken while quashing the charge sheet at the initial stage. 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)***, 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.”

7. 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 charge framed against them as that would completely undermine the alleged acts, which is the subject matter of criminal trial pending against them.

8. For the reasons aforesaid, this Court finds no ground or scope to quash S.C.No.541 of 2021, pending on the file of the learned Principal District Judge, Tirunelveli. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petitions are also dismissed.



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9. 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 senior 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

TSG

To

1.The Principal District Judge,
Tirunelveli.

2.The Inspector of Police,
Alwarkurichi Police Station,
Tirunelveli District.
Now Tenkasi District.



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M.DHANDAPANI. J.

TSG

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

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