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CrI.O.P.(MD)No.1529 of 2022



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.(MD) No.1529 of 2022  
and  
CrI.M.P.(MD)No.1109 of 2022

Muthuselvam

... Petitioner

Vs.

1.State Through,  
The Inspector of Police,  
C5, Karimedu Police Station,  
Madurai District.  
(Crime No.440 of 2021)

2.Murugasen @ Pandivel

... Respondents

**PRAYER:** Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records connected with impugned FIR in Crime No.440 of 2021 on the file of the first respondent and quash the same as illegal against the petitioner alone.

For petitioner : Mr.P.Rathinam

For R1 : Mr.B.Nambiselvan,  
Additional Public Prosecutor

For R2 : Mr.M.Maran



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## **ORDER**

This criminal original petition has been filed to quash FIR in Cr.No.440 of 2021 pending on the file of the first respondent police as against the petitioner herein.

2.The case of the prosecution is that on 17.05.2021, when the defacto complainant's son went to the shop, the accused persons stopped him and questioned that why he sold ganja to the under-aged boys in that area and also abused him in filthy language, which was informed to the defacto complainant. Therefore, the defacto complainant and his wife went to the place of occurrence and questioned about the incident. At that time, all the accused persons abused and attacked the defacto complainant and also his wife. Hence, the defacto complainant preferred a complaint before the first respondent police, based on which, FIR in Cr.No.440 of 2021 was registered for the offence under Sections 147, 148, 294(b), 323, 324, 326, 506(ii) IPC. Challenging the same, the present petition came to be filed.



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3.The learned counsel appearing for the petitioner would submit that the defacto complainant's son and his friends are accused persons in many previous cases, including NDPS case and he used to sell ganja to the minor children in the area. Hence, the petitioner herein questioned about the same. In order to wreck vengeance, the present false case came to be registered as against the petitioner. Therefore, he would pray to quash the impugned FIR.

4.The learned Additional Public Prosecutor appearing for the first respondent would submit that during pendency of this case, the first respondent police conducted investigation and charge sheet also filed, which was taken on file in C.C.No.331 of 2022 by the concerned jurisdictional Magistrate Court.

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 had to the decision of the Hon'ble Apex Court in *State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)*.

6.In view of the above, this criminal original petition is dismissed. At this juncture, the learned counsel appearing for the petitioner submitted that this Court may consider dispensing with the personal appearance of the petitioner before the court below. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his 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 petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days. Consequently, connected miscellaneous petition is closed.

**22.01.2024**

Index : Yes/No  
Internet : Yes/No  
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- 1.The Inspector of Police,  
C5, Karimedu Police Station,  
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- 2.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**M.DHANDAPANI. J.**

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