

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.01.2024**

CORAM:

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

Crl.O.P.(MD) No.1727 of 2022

and

Crl.M.P.(MD).No.1254 of 2022

R.Kumarasepandian

... Petitioner/Accused No.6

Vs.

1.The State through
the Sub Inspector of Police,
Perunazhi Police Station,
Ramanathapuram District.

2.P.Murugesan

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the criminal proceedings pending in C.C.No.138 of 2018 on the file of the learned District Munsif cum Judicial Magistrate, Kamuthi and quash the same as against the petitioner.

For petitioner

: Mr.S.Jeyasingh

For R-1

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

For R-2

: Mr.N.Dilip Kumar

ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.138 of 2018 on the file of the learned District Munsif cum Judicial Magistrate, Kamuthi.

2. The case of the prosecution is that the petitioner was working as a Junior Assistant in the KHN Higher Secondary School. It is alleged that there were two groups claiming management of the said School and the second respondent / *defacto* complainant claimed the Secretary post in the said School. It is further alleged that there was an oral argument arose between the second respondent with some persons and at that time, the second respondent and the other accused persons attacked the petitioner herein with weapons and scolded him by using filthy language. Thereafter, the petitioner herein lodged a complaint before the first respondent Police and the first respondent registered a case in Crime No.64 of 2018 against the second respondent for the offence punishable under Sections 147, 148, 294(b), 323, 324, 353 and 506(ii) of I.P.C. and after completing the investigation, the first respondent Police filed a charge sheet before the learned Judicial Magistrate, Kamuthi and the learned Judicial Magistrate has taken

cognizance in C.C.No.139 of 2018. Subsequently, the second respondent has given a false complaint before the first respondent Police in respect of the above said occurrence and the first respondent Police registered a criminal case in Crime No.65 of 2018 against the petitioner herein and after completing the investigation, the respondent Police filed a charge sheet before the learned Judicial Magistrate and the learned Judicial Magistrate has taken cognizance in C.C.No.138 of 2018 for the offence punishable under Sections 147, 294(b), 323, 427 and 506(i) of I.P.C.

3. The learned counsel appearing for the petitioner would submit that in order to wreck vengeance against the petitioner, a false case has been registered against the petitioner.

4. The learned Government Advocate (Crl. Side) would submit that the charges against the petitioner 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 petitioner, if he is subjected to due trial as sufficient opportunity would be given to the petitioner to put forth his

defence. The petitioner cannot be let by quashing the charges framed against him 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 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.138 of 2018, pending on the file of the learned Judicial Magistrate, Kamuthi. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

7. At this juncture, the learned counsel appearing for the petitioner would submit that this Court may consider to dispense 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 17273 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.

30.01.2024

Index : Yes/No

Internet : Yes/No

TSG

To

- 1.The District Munsif cum
Judicial Magistrate, Kamuthi.
- 2.The Sub Inspector of Police,
Perunazhi Police Station,
Ramanathapuram District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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M.DHANDAPANI. J.

TSG

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