



CrI.O.P(MD).No.2787 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2024

CORAM :

THE HON'BLE MR JUSTICE A.A.NAKKIRAN

CrI.O.P(MD)No.2787 of 2021

Sonlin Silvans

... Petitioner / 1st Accused

Vs.

1.Francies Xavier

... Respondent / Complainant

2.The Inspector of Police,
Thuckalay Police Station,
Kannyakumari District.

... Respondent / Defacto
Complainant

PRAYER:- Petition filed under Section 482 Cr.P.C., to call for the records relating to the proceedings in S.T.C.No.228 of 2019 pending on the file of the learned Judicial Magistrate No.I, Padmanabhapuram and may quash the same.

For Petitioner

: Mr.A.Balakrishnan

For R1

: Mr.G.Aravindhnan

For R2

: Mr.R.M.Anbunithi,

Additional Public Prosecutor



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ORDER

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This criminal original petition has been filed to quash the impugned Charge Sheet in S.T.C.No.228 of 2019 pending on the file of the learned Judicial Magistrate No.I, Padmanabhapuram.

2.The case of the prosecution is that the petitioner and the landlord of the defacto complainant are the brothers. Due to pathway dispute between the petitioner and the landlord of the complainant, on 20.02.2019, at about 05.30 p.m, at the instigation of the petitioner, the other accused persons waylaid the complainant and threatened him with dire consequences and also assaulted him with their hands and legs. Thereby, the complainant sustained injuries and he was admitted as inpatient in Rathan Hospital, Swamiarmadam as inpatient and discharged on 25.02.2019 . Hence, the first respondent lodged a complaint, based on which, a case in Cr.No.502 of 2018 registered for the offences under Sections 294(b), 323, 324 and 506(ii) of IPC. Upon completion of investigation, the second respondent filed the final report, which was taken on file in S.T.C.No.228 of 2019 by the learned Judicial Magistrate No.I, Padmanabhapuram. Challenging the same, the present petition has been filed.



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3.The learned counsel appearing for the petitioner submitted that the petitioner did not commit any offence as alleged by the prosecution and it is purely a civil dispute. He further submitted that the first respondent lodged the present complaint by giving criminal colour to the civil dispute and the second respondent without conducting proper investigation, filed the final report. Accordingly, he prayed to quash the impugned charge sheet.

4.The learned Additional Public Prosecutor appearing for the first respondent submitted that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and 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.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*



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Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426).

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

7.For the reasons aforesaid, this Court finds no ground or scope to quash S.T.C.No.228 of 2019 pending pending on the file of the learned Judicial Magistrate No.I, Padmanabhapuram. Accordingly, this petition, being devoid of merits, is dismissed.

8.At this juncture, the learned counsel appearing for the petitioner prayed to dispense with the personal appearance of the petitioner before the Trial Court.



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9.Considering the request made by the learned counsel appearing for the petitioner, the personal appearance of the petitioner is dispensed with before the trial Court with the following conditions:-

i)The personal appearance of the petitioner 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.

19.06.2024

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

dss

To

- 1.The Judicial Magistrate No.I,
Padmanabhapuram.
- 2.The Inspector of Police,
Thuckalay Police Station,
Kanniyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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A.A.NAKKIRAN, J.

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