



Crl.O.P.(MD)No.6088 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2024

CORAM:

THE HONOURABLE **MR.JUSTICE AA.NAKKIRAN**

Crl.O.P.(MD)No.6088 of 2021 and
Crl.M.P(MD).No.3496 of 2021

1.Palraj

2.Arul Jebakumar

3.C.Nijin

... Petitioners

Vs.

Jebin R. Oliver

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 Cr.P.C, to call for the records relating to the C.C.No.41 of 2021 on the file of the Judicial Magistrate No.II, Padmanabhapuram and quash the same.

For Petitioners

: Mr.K.Samidurai

For respondent

: Mr. G.Aravindan

ORDER

This criminal original petition has been filed to call for the records relating to the C.C.No.41 of 2021 on the file of the Judicial Magistrate



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No.II, Padmanabhapuram and quash the same.

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2. The case of the prosecution is that on 19.01.2020 at about 11.45 a.m, when the defacto complainant was in prayer meeting, the petitioners herein had attacked the defacto complainant and also taken away the mobile phone worth about Rs.8,000/- from his pocket. Subsequently, on the same day, the defacto complainant went to the place of first petitioner and quarrelled with him and also attacked him with stick and hand. Based on the private complaint given by the respondent, case has been taken on file in C.C.No.41 of 2021 on the file of the Judicial Magistrate No.II, Padmanabhapuram for the offences under Sections 294(b), 323, 324, 379 and 506(ii) IPC. In the counter complaint given by the first petitioner herein case has been registered in Crime No.20 of 2020 on the file of Thiruvattar Police for the offences punishable under Sections 294(b), 323 and 506(i) IPC and thereafter, the said case has been charge sheeted in C.C.No.35 of 2020 on the file of the Judicial Magistrate No.II, Padmanabhapuram. Challenging the private complaint given by the respondent, the petitioners herein have filed the present Criminal Original Petition.



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3. The learned counsel appearing for the petitioners submitted that the private complaint given by the respondent against the petitioners only as a counter blast with a view to harass the petitioners. He would further submit that suppressing the FIR registered against the respondent in Crime No.20 of 2020 and charge sheeted in C.C.No.35 of 2020 on the file of the Judicial Magistrate No.II, Padmanabhapuram, the respondent has given a private complaint for the very same incident and hence, the same is against the law and prays for allowing this petition.

4.The learned counsel appearing for the respondent submitted that the respondent herein has already given a complaint to the Superintendant of Police, Kanniyakumari District on 23.01.2020, but, no action has been taken on the said complaint. Hence, he has given a private complaint and the same was taken on file in C.C.No.41 of 2021 on the file of the learned Judicial Magistrate No.II, Padmanabhapuram. He would further submit that there are materials available to proceed with the case as against the petitioners herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioners have to be gone into only at the time of trial and hence, he



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prayed for dismissal of the petition.

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5. I have heard the learned counsel appearing on either side and perused the materials available on record.

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)***.

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.



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8. For the reasons aforesaid, this Court finds no ground or scope to quash the C.C.No.41 of 2021 on the file of the Judicial Magistrate No.II, Padmanabhapuram. Since the subject matter of the issue is one and the same and to avoid conflicting decisions the trial Court is directed to try both the cases in C.C.No.41 of 2021 and C.C.No.35 of 2020 pending on the file of the Judicial Magistrate No.II, Padmanabhapuram as per the Judgment of the Hon'ble Supreme Court reported in ***(2003) 9 Supreme Court Cases, 426 in the case of (State of M.P Vs. Mishrilal (Dead) and another)*** and dispose of the same in accordance with law. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, the connected miscellaneous petition is closed.

9. At this juncture, the learned counsel appearing for the petitioners prayed to dispense with the personal appearance of the petitioners before the Trial Court and also seek early disposal of the above said case.

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



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i)The personal appearance of the petitioners 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.

26.06.2024

Index: Yes/No
Internet: Yes/No
trp

To

1. The Judicial Magistrate No.II, Padmanabhapuram
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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AA.NAKKIRAN,J

trp

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