



Crl.O.P.(MD)No.11898 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **05.03.2024**

CORAM:

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

Crl.O.P.(MD) No.11898 of 2022

1.Santhi

2.Ayyathurai

3.Selvaraj

... Petitioners

Vs.

1.The State through
the Sub Inspector of Police,
Kulasekaram Police Station,
Kanniyakumari District.
Crime No.4 of 2022

2.Dhanalakshmi @ Lakshmi

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in the case in C.C.No.59 of 2022 on the file of the learned Judicial Magistrate No.II, Pathmanabhapuram, Kanyakumari District and quash the same.

For petitioners

: Mr.Punitha Devakumar

For R-1

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

For R-2

: Mr.D.Anbarasu



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ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.59 of 2022 on the file of the learned Judicial Magistrate No.II, Pathmanabhapuram, Kanyakumari District, insofar as the petitioners are concerned.

2. The case of the prosecution is that due to previous enmity between the petitioners and the second respondent / defacto complainant, the petitioners herein attacked the second respondent / *defacto* complainant with hands and threatened him with dire consequences and abused him by using filthy language. Hence, the second respondent herein made a complaint before the first respondent Police and the first respondent Police has registered a case in Crime No.4 of 2022 against the petitioners and the respondent Police has conducted investigation. After completing investigation, the charge sheet has been filed before the learned Judicial Magistrate No.II, Padmanabhapuram and the learned Judicial Magistrate has taken cognizance in C.C.No.59 of 2022 for the offence punishable under Sections 294(b), 323, 427 and 506 (i) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002.

3. The learned counsel appearing for the petitioners would submit that a false case has been foisted against the petitioners and there is no specific allegation made against the petitioners.



4. The learned Government Advocate (Crl. Side) would 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 prayed for dismissal of the petition.

5. Heard the learned counsel appearing for the second respondent.

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



Crl.O.P.(MD)No.11898 of 2022

7. For the reasons aforesaid, this Court finds no ground or scope to quash the proceedings in C.C.No.59 of 2022 pending on the file of the learned Judicial Magistrate No.II, Pathmanabhapuram, Kanyakumari District. Accordingly, this Criminal Original Petition is dismissed.

8. At this juncture, the learned counsel appearing for the petitioners would submit that this Court may consider to dispense with the personal appearance of the petitioners before the court below. Taking into consideration the request as made by the learned 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.

05.03.2024

Index : Yes/No
Internet : Yes/No
TSG



Crl.O.P.(MD)No.11898 of 2022

To

1.The Judicial Magistrate No.II, Padmanabhapuram,
Kanniyakumari District.

2.The Sub Inspector of Police,
Kulasekaram Police Station,
Kanniyakumari District.

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



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Crl.O.P.(MD)No.11898 of 2022

M.DHANDAPANI. J.

TSG

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