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Crl.O.P.(MD)No.10971 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2024

CORAM:

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

Crl.O.P.(MD) No.10971 of 2022 and
Crl.M.P.(MD).Nos.6932 and 6933 of 2022

1.Murugan

2.Pratheep @ Anikuttan

... Petitioner/Accused 1 & 2

Vs.

The Inspector of Police
Kottar Police Station,
Kanyakumari District

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to C.C.No.348 of 2020, on the file of the Judicial Magistrate Court No.II, Nagercoil, Kanyakumari District and quash the same.

For petitioners : Mr.R.Murugappan

For R-1 : Mr.P.Kottaichamy
Government Advocate (Crl. side)

ORDER

This petition has been filed seeking to quash the charge sheet in C.C.No.348 of 2020 filed for the offence punishable under Sections 294(b), 352 and 353 IPC on the file of the learned Judicial Magistrate, No.II, Nagercoil.



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2. The case of the prosecution is that the petitioners have caused traffic nuisance; even after a warning, it is alleged that the petitioners said to have abused the respondent police and hence, a complaint has been preferred by the Inspector of Police; a case has been registered in Crime No.337/2019 and on completion of investigation, chargesheet has been filed before the jurisdictional court, for quashing the same, the petitioners are before this court.

3. The learned counsel for the petitioners would submit that there are no materials whatsoever available with the respondent to show that the petitioners have indulged in traffic nuisance. In the absence of any documents, the complaint itself seems to be preferred with ulterior motive in order to implicate the petitioners. He would further submit that merely because the respondent files a complaint, it does not mean that the petitioners have indulged in the alleged act of nuisance and that the petitioners have nothing to do with the alleged and they have been falsely implicated. He would further submit that as far as the offence under Section 353 IPC is concerned, there should be some assault made on the public servant while discharging their duties. However he would submit that there is no material with regard to Section 353 IPC and hence, on these grounds, he prays for allowing this petition.



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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. 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 them 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 him. 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. For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.348 of 2020, pending on the file of the learned Judicial Magistrate, No.II, Nagercoil. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petitions are dismissed.



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7. The learned counsel appearing for the petitioners submitted that this Court may consider dispensing 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.

04.03.2024

Index : Yes/No

Internet : Yes/No

RR

To

1. The Judicial Magistrate, No.II, Nagercoil.

2.The Inspector of Police,
Kottar Police Station,
Kanyakumari District

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



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M.DHANDAPANI. J.

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