



Crl.O.P.(MD)No.12638 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P.(MD)No.12638 of 2022

Arumugavel

... Petitioner/De-facto
Complainant

VS.

1.The Inspector of Police,
Kadaladi Police Station,
Ramanathapuram District
(Crime No.235 of 2020)

2.Senthurpandi @ Bose

3.Muniyasamy Pandian

4.Ramar

5.Balamurugan

6.Velmurugan

7.Muruganantham

8.Thirunavukarasu

... Respondents/A1 to A7



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... Respondents/A11

9.Arunachalam

10.Ganesamoorthi

11.Amsaraj

12.Thirugnanam

13.Muthuchellam

... Respondents/A13 to A16

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to the order, dated 01.11.2021, made in S.T.C.No.509 of 2021 on the file of the learned District Munsif cum Judicial Magistrate, Kadaladi taking cognizance of the case and set aside the same as illegal and permit the petitioner to file a protest petition to canvas his right in accordance with law within the period that may be stipulated by this Court.

For Petitioners : Mr.R.Gandhi, Senior Counsel
for Mr.J.Karthikeyan

For R1 : Mr.Thanga Aravindh.B
Government Advocate (Crl. Side)

For R2 to R13 : Mr.K.Kumaravel

ORDER

This petition has been filed by the de-facto complainant challenging the order passed by the learned District Munsif cum Judicial Magistrate, Kadaladi in S.T.C.No.509 of 2021 dated 01.11.2021.



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2. The petitioner gave a complaint to the 1st respondent police on the ground that on 28.01.2020 at about 9.00 a.m., when the petitioner was heading towards his agricultural lands in his car, one Muniyasami Pandian, along with his henchmen, waylaid the car and dashed the car with the two wheeler. When the same was questioned, the petitioner was abused in filthy language and an attempt was made to attack him with deadly weapon. Based on the complaint given by the petitioner, a First Information Report came to be registered in Crime No.235 of 2020 as against 16 accused persons for the offence under Sections 147, 148, 294(b), 323, 341 and 307 of IPC read with Section 3 of TNPPDL Act. After sustained efforts taken by the petitioner, a slipshod police report came to be filed before the Court below only as against four accused persons and the names of 12 accused persons were dropped. On receipt of the police report, a Rubber Stamp Cognizance was taken on 01.11.2021 and on the same day, the accused persons were present before the Court and they pleaded guilty and the Court below proceeded to impose fine of Rs.500/- for each of the offence under Section 294(b) and 427 of IPC. Aggrieved by the procedure adopted by the Court below, the de-facto complainant has filed the present petition before this Court.



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3. Heard R.Gandhi, learned Senior Counsel for Mr.J.Karthikeyan, appearing for the petitioner, Mr.B.Thanga Aravindh, learned Government Advocate (Criminal Side) appearing for the 1st respondent and Mr.K.Kumaravel, learned counsel appearing for respondent Nos.2 to 13.

4. In the considered view of this Court, the procedure that was adopted by the Court below is on the face of it illegal.

5. The First Information Report was registered as against 16 named accused persons. If, ultimately, the police report is filed only as against four persons and the names of the other accused persons are dropped, the Court below is expected to ensure that a notice is issued to the de-facto complainant in order to enable the de-facto complainant to file a protest petition against dropping the names of 12 accused persons in the police report. This procedure was not followed in this case.

6. The Court below did not even apply its mind on the police report that was filed by the police and the same is evident from the fact that a Rubber Stamp Cognizance has been taken by the Court below on



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01.11.2021. This Court has repeatedly held that Rubber Stamp Cognizance is not a cognizance in the eye of law and the process of taking cognizance requires application of mind and it is a judicial process where the Court must be satisfied that the materials placed makes out an offence against the particular accused persons. That process has not been undertaken by the Court below.

7. The other issue is that the First Information Report was registered for various offences under Indian Penal Code and also for the offence under Section 3 of TNPPDL Act. However, at the time of filing the police report, the offence was confined to Sections 294(b) and 427 of IPC and as a result, it enabled the accused persons to appear before the Court and plead guilty and thereby, paid fine imposed by the Court below.

8. The entire process that was adopted by the Court below goes against the procedure provided under Code of Criminal Procedure and also against the settled position of law enunciated by the apex Court and followed by this Court. Hence, the order, dated 01.11.2021, passed by the learned Judicial Magistrate, Kadaladi in S.T.C.No.509 of 2021 is hereby set aside. The petitioner is permitted to file a protest petition before the



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learned Judicial Magistrate, Kadaladi and the same shall be entertained by the Court below and a decision shall be taken in accordance with law.

9. It is made clear that the Court below will adopt the correct procedure going forward without dealing with the case in a hasty manner. All efforts shall be taken to complete the main case within a period of six months from the date of receipt of a copy of this order.

10. In the result, this Criminal Original Petition is allowed with the above directions.

03.12.2024

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Index : Yes/No

Speaking Order/Non-Speaking Order

Neutral citation : Yes/No



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To

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



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N. ANAND VENKATESH, J.

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