



CrI.O.P.(MD)No.13208 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.08.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

CrI.O.P.(MD)No.13208 of 2024

and

CrI.M.P(MD)Nos.8114 and 8116 of 2024

C.Govindasamy

... Petitioner

Vs.

1.The State through,
The Inspector of Police,
Pattukottai Taluk Police Station,
Thanjavur District.
Crime No.160 of 2019.

2.J.Veerakumar

... Respondents

PRAYER : Criminal Original Petition filed under Section 428 of Cr.P.C., to call for the entire records connected with the case in P.R.C.No.66 of 2023 pending on the file of the learned Judicial Magistrate, Pattukottai and quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.P.Kandhasamy

For Respondents : Mr.K.Sanjai Gandhi,
Government Advocate (Criminal Side)
for R1.



Crl.O.P.(MD)No.13208 of 2024

WEB COPY

ORDER

This Criminal Original Petition has been filed, invoking Section 428 of Cr.P.C., seeking orders, to call for the entire records connected with the case in P.R.C.No.66 of 2023 pending on the file of the learned Judicial Magistrate, Pattukottai and quash the same in so far as the petitioner is concerned.

2. It is seen from the records that on the basis of the complaint lodged by the second respondent, FIR came to be registered in Crime No.160 of 2019, on 24.08.2019 for the offence under Sections 147, 148, 342, 294(b), 324, 506(2) and 109 of I.P.C., against one Veerasekaran and others and the first respondent, after completing investigation, has filed the final report against the four persons including the petitioner herein for the alleged offence under Sections 342, 294(b), 324, 506(ii), 109, 307, 120B, 365 and 34 IPC., and the same was taken on file in P.R.C.No.66 of 2023.

3. The learned counsel for the petitioner would submit that the petitioner's name does not find place in the FIR and subsequently, on the basis of the confession taken from the co-accused, he has been added.



Crl.O.P.(MD)No.13208 of 2024

WEB COPY

4. The learned Government Advocate (Criminal Side) would submit that the petitioner has been added on the basis of the confession statement taken from the co-accused and that the charge sheet contains specific allegations against the petitioner.

5. Just because, the petitioner's name does not find place in the FIR and he was added on the basis of the confession taken from the co-accused, the same cannot be taken as a ground to quash the charge sheet. The next contention is that the confession statement taken from the co-accused is not proper and legal. It is settled law that the validity and the legality of the confession statement cannot be decided in the present proceedings and the same is a matter for trial. Except the above, the petitioner has not canvassed any other reason or ground to quash the impugned charge sheet.

6. The Hon'ble Supreme Court in the case of *State of Haryana and others Vs. Bhajan Lal and others* reported in *1992 SCC (Cri) 426* has enumerated 7 categories of cases, where the power can be exercised under Section 482 of Code of Criminal Procedure and the same are extracted



Crl.O.P.(MD)No.13208 of 2024

hereunder:-

WEB COPY

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under



Crl.O.P.(MD)No.13208 of 2024

Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly



CrI.O.P.(MD)No.13208 of 2024

attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

7. In ***Dr.Dhruvaram Murlidhar Sonar Vs. The State of Maharashtra and others*** reported in **2019 (18) SCC 191**, the Hon'ble Apex Court has specifically held that exercise of powers under Section 482 Cr.P.C. to quash the proceedings is an exception and not a rule. It is settled law that the inherent jurisdiction under Section 482 Cr.P.C. is wide but at the same time, the same is to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the Section itself.

8. The Hon'ble Supreme Court in ***Kaptan Singh Vs. The State of Uttar Pradesh and others*** reported in **2021 (3) Crimes 247** has stated that, that Court in catena of decisions has observed that the High Court is not required to go into the merits of the allegations and/or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and/or conducting the trial and that question is required to be examined keeping in view, the contents of FIR and *prima facie* materials, if any,



Crl.O.P.(MD)No.13208 of 2024

requiring no proof and at such stage, the High Court cannot appreciate evidence nor can it draw its own inferences from contents of FIR and materials relied on.

9. A cursory perusal of the final report and the statements filed along with the final report would make it clear that there existed a *prima facie* case to proceed against the petitioner and it is a matter for trial.

10. In the result, the Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

13.08.2024

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

To

1.The Judicial Magistrate, Pattukottai.

2.The Inspector of Police,
Pattukottai Taluk Police Station,
Thanjavur District.

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



WEB COPY



Crl.O.P.(MD)No.13208 of 2024

K.MURALI SHANKAR,J.

DAS

Order made in
Crl.O.P.(MD)No.13208 of 2024
and
Crl.M.P(MD)Nos.8114 and 8116 of 2024

Dated: 13.08.2024