



Crl.O.P.(MD)No.13256 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.12.2024

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.13256 of 2022
and Crl.M.P.(MD) No.8452 of 2022

1. Kandakrishnakumar
2. M.Madasamy
3. Raja Kumaran
4. Kamaraj

... Petitioners

Vs.

1.The Inspector of Police,
Rajapalayam South Police Station,
Virudhunagar District.
Crime.No.13 of 2020.

2. Selvakumar

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the P.R.C.No. 27 of 2020 on the file of Judicial Magistrate, Rajapalayam in Crime.No. 13 of 2020 dt 11/01/2020 on the file of the 1st respondent police and quash the same.

For Petitioners : Mr.T.Antony Arul Raj
for Mr.S.Venkatesh

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



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ORDER

This petition has been filed to quash the proceedings in P.R.C.No.27 of 2020 on the file of the learned Judicial Magistrate, Rajapalayam.

2.The complaint came to be given by the second respondent who is a returning officer on the ground that on 11.01.2020 at about 11.00 a.m., voting was going on for electing the President of Rajapalayam Panchayat Union at the Panchayat Union Office. At that point of time, it is alleged that the accused persons started involving in violence and had stalled the proceedings by throwing chairs and by causing damage to the vote box. Based on this complaint, FIR came to be registered in Crime No.13 of 2020. On completion of investigation, the final report has been filed for offence under Sections 3 of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992, Section 353 of IPC and Section 136 of the Representation of the People Act 1951, as against four accused persons by deleting 20 other accused persons from



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the final report. Those accused persons have filed the present quash petition.

3.Heard the learned counsel for the petitioner and the learned Government Advocate appearing on behalf of the first respondent.

4.Even though various grounds were raised on the side of the petitioner, it is not necessary for this Court to go into those issues since it is seen that the Court below has taken rubber stamp cognizance.

5.This Court by relying upon the judgment of the Apex Court has repeatedly held that the process of taking cognizance is a judicial process which requires application of mind. A rubber stamp cognizance is no cognizance in the eye of law since what is being done is to put the seal in the complaint and fill-up the gaps. Such rubber stamp cognizance has been frowned upon by this Court. Useful reference can be made to the judgment of this Court in *Shanmugam and others v. Inspector of Police, Ariyalur Police Station, Ariyalur and others*,



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reported in **(2019) 3 MLJ (Crl.) 339**. The Apex Court also dealt with this issue in ***S.K.Sinha, Chief Enforcement Officer v. Videocon International Ltd & Ors.***, reported in **(2008) 1 SCC (Crl.) 471**.

6.In the light of the above, the cognizance order passed by the Court below is hereby set aside. The matter is remanded back to the file of the learned Judicial Magistrate, Rajapalayam and the learned Judicial Magistrate shall independently apply his mind on the police report and the materials placed before the Court and take a decision with regard to taking cognizance of the case. This process shall be completed within a period of four weeks from the date of receipt of a copy of this order.

7.In the result, this Criminal Original Petition is allowed with the above direction. Consequently, connected miscellaneous petition is closed.

03.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PKN

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To

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- 1.The Inspector of Police,
Rajapalayam South Police Station,
Virudhunagar District.
- 2.The Additional Public Prosecutor
Madurai Bench of Madras High Court.



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N.ANAND VENKATESH,J.

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