



Crl.O.P.(MD)No.13808 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **14.03.2024**

CORAM:

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

Crl.O.P.(MD) No.13808 of 2022
and Crl.M.P(MD).No.8840 of 2022

- 1.A.Perumal
- 2.P.Arunachalam
- 3.Subbaiah
- 4.Anbalagan
- 5.Parameswari
- 6.Soundara Pandiyan Nadar

... Petitioners

Vs.

- 1.State Rep. by
The Inspector of Police,
Surandai Police Station,
Tenkasi, Tenkasi District.
Crime No.551 of 2020
- 2.A.Sudalai,
Village Administrative Officer,
Achankuttam, V.K.Puthur Taluk,
Tenkasi District.

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records pertaining to the charge sheet in C.C.No.9 of 2022 pending before the learned Judicial Magistrate, Alangulam and quash the same as illegal as against the petitioners.



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For Petitioners : Mr.T.Lajapathi Roy

For Respondents : Mr.S.Manikandan
Government Advocate (Crl.side) for R1

No Appearance for R2

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.9 of 2022 pending before the learned Judicial Magistrate, Alangulam.

2.The case of the prosecution is that there was a dispute between the petitioners and the second respondent with the regard to the transfer of patta in the name of the fifth petitioner in S.No.139/3G in Achankutta Village. Thereby, the petitioners joined together and threatened the defacto complainant and also prevented him from discharging his official duty. Hence, the second respondent made a complaint before the first respondent Police, based on which, a case in Crime No.551 of 2020 was registered against the petitioners for the offence punishable under Sections 147, 294(b), 353 and 506(i) of IPC. After completion of investigation, the first respondent Police has filed a charge sheet before



the learned Judicial Magistrate, Alangulam and the same was taken on file in C.C.No.9 of 2022.

3.The learned counsel appearing for the petitioners would submit that the first and fifth petitioners are the husband and wife; the petitioners 2 to 4 are the sons of the first and fifth petitioners; and the sixth petitioner is a relative of the first petitioner, who is a retired VAO. He would further submit that admittedly, the first petitioner made an application for change of revenue records in the name of the fifth petitioner. However, the same was not verified by the second respondent. Thereby, the petitioners made a complaint before the District Collector for taking appropriate action against the second respondent. In that background, the second respondent made a false complaint before the first respondent police which is not sustainable one. He would further submit that the petitioners 1 to 4 and 6 are ready to face the trial and in respect the fifth petitioner is concerned, there is no materials to implicate her. Accordingly, he prayed to quash the impugned proceedings as against the fifth petitioners.

4.The learned Government Advocate(Crl.side) appearing for the first respondent would submit that the first respondent has conducted a



fair investigation and after examining the necessary witnesses and collecting all materials, he has filed the final report, which has been taken cognizance of by the court below. Accordingly, he prayed to dismiss the present petition.

5.Heard the learned counsel on either side and perused the materials available on records.

6.It is seen that the first petitioner made an application for change of revenue records in the name of the fifth petitioner. However, the same was not verified by the second respondent. Thereby, the petitioners joined together and threatened the second respondent and also prevented him from discharging his official duty. This Court perused the entire charge sheet and list of witnesses. A perusal of the same revealed that there are some allegations made against the petitioners 1 to 4 and 6 and no serious allegation was made against the fifth petitioner.

7.As per decision of the Hon'ble Supreme Court in ***N.S.Madhanagopal & Anr. Vs. K.Lalitha*** reported in ***2022 LiveLaw (SC) 844***, in order to attract the offence under Section 294(b) IPC, there must be a proof to establish that the words uttered by the accused person



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annoyed others. In this case, it is alleged that the fifth petitioner uttered abusive words against the defacto complainant, however, mere utterance of abusive, humiliating or defamative words cannot attract an offence under Section 294(b) IPC. Section 147 IPC speaks about the punishment for rioting. The allegation made against the fifth petitioner that she had threatened the second respondent with dire consequences, does not satisfy the requirement of ingredients of Section 506(1) IPC. For attracting the offence under Section 353 IPC, there are no materials whatsoever available to prove that the fifth petitioner has interfered with the official duty of the second respondent.

8.Hence, this Court is inclined to quash the proceedings insofar as the fifth petitioner. Accordingly, the impugned proceedings in C.C.No.9 of 2022 pending on the file of the learned Judicial Magistrate, Alangulam, is hereby quashed, insofar as the fifth petitioner. Since there are materials available as against the petitioners 1 to 4 and 6, they are directed to face the trial. Accordingly, this petition is dismissed insofar as the petitioners 1 to 4 and 6 are concerned.

9.At this juncture, the learned counsel appearing for the petitioners 1 to 4 and 6 would submit that this Court may consider to dispense with



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the personal appearance of the petitioners 1 to 4 and 6 before the court below. Taking into consideration the request as made by the learned counsel for the petitioners 1 to 4 and 6, the appearance of the petitioners 1 to 4 and 6 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 1 to 4 and 6 is necessary, the trial court, at its wisdom, shall direct their appearance on those days.

10.In the result, this Criminal Original Petition is partly allowed.

Connected miscellaneous petition is closed.

14.03.2024

Index : Yes/No

Internet : Yes/No

NCC : Yes/No

Sji

To

1.The Judicial Magistrate, Alangulam

2.The Inspector of Police,
Surandai Police Station,
Tenkasi, Tenkasi District.



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

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M.DHANDAPANI. J.

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