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CrI.O.P.(MD)No.13719 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.03.2024**

CORAM:

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

CrI.O.P.(MD) No.13719 of 2022
and
CrI.M.P.(MD).No.8761 of 2022

R.Shanmugapandi

... Petitioner

Vs.

1.The Inspector of Police,
Panavadalichatram Police Station,
Tenkasi.
Crime No.162 of 2021

2.Ramasamy Pandian

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records and quash the charge sheet in C.C.No.181 of 2022 on the file of the learned Judicial Magistrate, Sankarankovil in respect of Crime No.162 of 2021 on the file of the first respondent Police.

For petitioner

: Mr.P.P.Alwin Balan

For R-1

: Mr.S.Manikandan,
Government Advocate
(Criminal Side)

For R-2

: Mr.M.Jothi Basu



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ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.181 of 2022 on the file of the learned Judicial Magistrate, Sankarankovil.

2. The case of the prosecution is that the petitioner, who is the son of the *defacto* complainant, got married with one Tamil Selvi in the year 2003, had two children. Thereafter, the said Tamil Selvi died and after the demise of his wife in the year 2016, he married another girl and now he is living with her separately. It is alleged that the petitioner has failed to maintain his children and his children are under the second respondent's custody and accordingly, the second respondent filed a petition seeking maintenance for the said children and the said case is pending for adjudication. In the said factual backdrop, the petitioner, who attended the hearing on 28.07.2021, went to the second respondent's home and assaulted and abused his mother and children and demanded for withdrawal of the said maintenance case. Hence, the second respondent Police made a complaint before the first respondent Police and the first respondent Police has registered a case in Crime No.162 of 2021 for the offence punishable under Sections 294(b), 323 and 506(ii)



IPC and Section 4 of TNPHW Act. Thereafter, the first respondent has conducted investigation and after completing investigation, they filed a charge sheet before the learned Judicial Magistrate, Sankarankovil and the same was taken on file in C.C.No.181 of 2022.

3. The learned counsel appearing for the petitioner would submit that a false case has been foisted against the petitioner and there is no specific allegation as against the petitioner.

4. The learned Government Advocate (Criminal Side) appearing for the respondent Police would submit that all those points raised before this Court is a triable issue, which cannot be canvassed before this Court and it can be canvassed only at the time of trial.

5. Heard the learned counsel appearing for the second respondent.

6. 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 petitioner, if he is subjected to due trial as sufficient opportunity would be given to the petitioner to put forth his



defence. The petitioner cannot be let by quashing the charges framed against him 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 made to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)***

7. For the reasons aforesaid, this Court finds no ground or scope to quash the proceedings in C.C.No.181 of 2022. on the file of the learned Judicial Magistrate, Sankarankovil. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

8. At this juncture, the learned counsel appearing for the petitioner would submit that this Court may consider to dispense with the personal appearance of the petitioner before the court below. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his 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



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petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

07.03.2024

Index : Yes/No

Internet : Yes/No

TSG

To

1.The Judicial Magistrate, Sankarankovil.

2.The Inspector of Police,
Panavadalichatram Police Station,
Tenkasi.

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



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M.DHANDAPANI. J.

TSG

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