



Crl.O.P(MD).No.13476 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2024

CORAM :

THE HON'BLE MR JUSTICE A.A.NAKKIRAN

Crl.O.P(MD)No.13476 of 2021

and

Crl.MP(MD)No.7002 of 2021

1.Fazuluddin

(Wrongly mentioned as Basludeen instead of Fazuluddin in the Final Report)

2.Abdul Kadar

(Wrongly mentioned as Abudul Kathar instead of Abdul Kader in the Final Report)

3.Ayyup Khan

(Wrongly mentioned as Ayubkhan instead of Ayyup Khan in the Final Report)

4.Ganesan

5.Udhuman Mydeen

(Wrongly mentioned as Mydeen instead of Udhuman Mydeen in the Final Report)

6.Musthafa Kamal

(Wrongly mentioned as Mustafa instead of Musthafa Kamal in the Final Report)

... Petitioners / Accused Nos.1 to 6

Vs.



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1.The State represented by
The Inspector of Police,
Achanpudur Police Station,
Ilathur, Tirunelveli District.
(In Crime No.219 of 2017)

... 1st Respondent / Complainant

2.Sarputheen

... 2nd Respondent / Defacto
Complainant

PRAYER:- Petition filed under Section 482 Cr.P.C., to call for the entire records pertaining to the charge-sheet filed in C.C.No.486 of 2018 on the file of the Judicial Magistrate Court, Sengottai and quash the same as illegal.

For Petitioners	: Mr.R.Karunanithi
For R1	: Mr.K.Sanjai Gandhi
	Government Advocate (Crl.Side)
For R2	: Mr.G.Karuppasamy Pandian

ORDER

This criminal original petition has been filed to quash the impugned charge sheet in C.C.No.486 of 2018 on the file of the Judicial Magistrate Court, Sengottai.

2.The case of the prosecution is that the first petitioner and the defacto complainant are the brothers. The petitioners herein are said to have trespassed into the coconut grove of the defacto complainant and abused him in filthy language and assaulted him with their hands and



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wooden log and also threatened him with dire consequence. Hence, the second respondent lodged a complaint, based on which, a case in Cr.No. 219 of 2017 registered for the offence under Sections 147, 441, 294(b), 506(2) and 352 of IPC. Upon completion of investigation, the first respondent filed the final report, which was taken on file in C.C.No.486 of 2018 by the Judicial Magistrate Court, Sengottai. Challenging the same, the present petition has been filed.

3.The learned counsel appearing for the petitioners submitted that the petitioners did not commit any offence as alleged by the prosecution and so many complaints were given by the defacto complainant against the petitioners. It is purely a civil dispute. Earlier property civil disputes were referred to Mediator and the Hon'ble Mr.Justice S.A.Kader has conducted Arbitration and passed the award. Subsequently, the Arbitration award was challenged before this Court in O.S.No.59 of 2012 and O.S.A.No.173 of 2014. On earlier occasion, two Criminal Original Petitions filed by son of the first petitioner were quashed by this Court in Crl.OP(MD)No.3062 of 2021 and Crl.OP(MD)No.14446 of 2020 on 21.05.2021 and 06.07.2021 respectively. These two cases are arisen out of the very same family property disputes. However, the second



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respondent lodged the present complaint by giving criminal colour to the civil dispute and the first respondent without conducting proper investigation, filed the final report. Accordingly, he prayed to quash the impugned charge sheet.

4.The learned Government Advocate (Crl.Side) appearing for the first respondent submitted that there are materials available to proceed with the case as against the petitioners herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioners have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5.The learned counsel appearing for the second respondent submitted that the alleged land is belong to the second respondent. There is specific allegation against the petitioners and hence, he prayed to dismiss the present petition.

6.Time and again, this Court as well as the Supreme Court has cautioned the courts about the necessary precautions to be taken while quashing the charge sheet at the initial stage. Useful reference in this



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regard can be had to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426).***

7.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 petitioners if they are subjected to due trial as sufficient opportunity would be given to the petitioners to put forth their defence. The petitioners cannot be let by quashing the charge framed against them as that would completely undermine the alleged acts, which is the subject matter of criminal trial pending against them.

8.For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.486 of 2018 pending on the file of the Judicial Magistrate Court, Sengottai. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petition is closed.

9.At this juncture, the learned counsel appearing for the petitioners prayed to dispense with the personal appearance of the petitioners before the Trial Court.



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10.Considering the request made by the learned counsel appearing for the petitioners, the personal appearance of the petitioners is dispensed with before the trial Court with the following conditions:-

i)The personal appearance of the petitioners 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 is necessary, the trial court, at its wisdom, shall direct their appearance on those days.

21.06.2024

1/2

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
dss

To

- 1.The Judicial Magistrate Court,
Sengottai.
2. The Inspector of Police,
Achanpudur Police Station,
Ilathur, Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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A.A.NAKKIRAN, J.

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