



Crl.O.P(MD).No.13528 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.13528 of 2021

and

Crl.MP(MD)No.7026 of 2021

Fazuluddin

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

... Petitioner / Accused Nos.1 to 6

Vs.

1.The State represented by
The Inspector of Police,
Ilathur Police Station,
Ilathur, Tirunelveli District.
(In Crime No.70 of 2017)

... 1st Respondent / Complainant

2.Seyad Jalaludeen

... 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 S.T.C.No.126 of 2019 on the file of the Judicial Magistrate Court, Sengottai and quash the same as illegal as against the petitioner.

For Petitioner

: Mr.R.Karunanithi

For R1

: Mr.K.Sanjai Gandhi

Government Advocate (Crl.Side)



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ORDER

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This criminal original petition has been filed to quash the impugned charge sheet in S.T.C.No.126 of 2019 on the file of the Judicial Magistrate Court, Sengottai.

2.The case of the prosecution is that the petitioner herein are said to have trespassed into the coconut grove of the defacto complainant and abused him in filthy language and assaulted him with his hand and also threatened him with dire consequence. Hence, the second respondent lodged a complaint, based on which, a case in Crime No.70 of 2017 registered for the offence under Sections 447, 294(b), 323 and 506(1) of IPC. Upon completion of investigation, the first respondent filed the final report, which was taken on file in S.T.C.No.126 of 2019 by the Judicial Magistrate Court, Sengottai. Challenging the same, the present petition has been filed.

3.The learned counsel appearing for the petitioner submitted that the petitioner did not commit any offence as alleged by the prosecution and so many complaints were given by the defacto complainant against the petitioner. It is purely a civil dispute. Earlier property civil disputes



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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 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 petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioner have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.



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

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

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

21.06.2024

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NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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A.A.NAKKIRAN, J.

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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