



CrI.O.P.(MD)No.12749 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 20.09.2024

Delivered on : 29.10.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

CrI.O.P.(MD)No.12749 of 2024

and

CrI.M.P(MD)No.7846 of 2024

M.Parthipan

... Petitioner/A1

Vs.

1.State represented by
The Inspector of Police,
Kundrakudi Police Station,
Thirupathur Taluk,
Sivagangai District.
(Crime No. 83 of 2024)

2.Mahalingam

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS,
to call for the records pertaining to the Crime No.83 of 2024 on the file of
the first respondent police and quash the same.

For Petitioner : Mr.Ramesh Mahadev,

For Respondents : Mr.K.Sanjai Gandhi,
Government Advocate (CrI. Side)
for R1.



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Crl.O.P.(MD)No.12749 of 2024

ORDER

This Criminal Original Petition has been filed, invoking Section 528 of BNSS., seeking orders, to call for the records pertaining to the Crime No.83 of 2024 on the file of the first respondent police and quash the same as against the petitioner.

2. The case of the prosecution is that a Kalaiyarangam was constructed in Thulavur Village, Thattadi Panchayat through MLA scheme; that the contractor Velu had lodged a complaint stating that one Parthiban and his men had damaged the painting already made to the Kalaiyarangam; that on the basis of the complaint given by the contractor, the defacto complainant/Block Development Officer and the Deputy Block Development Officer officer had visited the Kalaiyarangam and found that the painting already made was destroyed and that therefore, a complaint came to be lodged. On the basis of the complaint lodged by the second respondent, FIR came to be registered in Crime No.83 of 2024 against the petitioner and three persons for the alleged offence under Section 3(1) of Prevention of Damage to Public Property Act 1984.



Crl.O.P.(MD)No.12749 of 2024

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3. The learned counsel appearing for the petitioner would submit that earlier on the basis of the complaint given by the Village Panchayat President Rajendran, CSR.No.234 of 2024 came to be registered against the four persons, namely Kamaraj, Anandharan, Perumal and Pandi, as if they had alone damaged the Village Kalaiyarangam and destroyed the painting work; that subsequently, the said Village Panchayat President Rajendren has sent a letter to the Sub-Inspector of Police, Kundrakudi Police Station, seeking to withdraw the complaint already made on the basis of the assurance given by the said accused persons to repaint the Kalaiyarangam; that the said four persons had also submitted a letter to the first respondent admitting the allegations and assuring to repaint the Village Kalaiyarangam; that the petitioner's name does not find place in the complaint given by the Village Panchayat President earlier and was not called for enquiry by the police and that subsequently, with evil intention to implicate the petitioner, the second respondent has lodged a complaint as if the petitioner and his men had destroyed the paint work.



Crl.O.P.(MD)No.12749 of 2024

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4. No doubt, the petitioner has produced the copy of the complaint sent by the Thattadi Panchayat President Rajedran to the Sub-Inspector of Police, Kundrakudi Police alleging that four persons had destroyed the paint work done in the Kalaiyarangam and sought for necessary action against them and that on the basis of the complaint, CSR.No.234 of 2024 came to be registered against four persons.

5. The petitioner has also produced the copy of the letter sent by one Anandraj to the Inspector of Police, Kundrakudi Police Station, stating that they would undertake the work of changing the paint in the Kalaiyarangam in a day or two and they will not involve any such activities in future and the Panchayat President Rajendran has also sent a letter to the Sub-Inspector of Police stating that since the accused had agreed to repaint the Kalaiyarangam, no further action is necessary.

6. As rightly contended by the learned counsel for the petitioner, in the above correspondence and the complaint given by the Village Panchayat President and the CSR issued, the petitioner's name does not find place. But the learned Government Advocate (Criminal Side)



Crl.O.P.(MD)No.12749 of 2024

appearing for the State would submit that since the petitioner is an important person in the locality, the Village Panchayat President has purposely omitted to name the petitioner in the compliant and that subsequently, the second respondent/Block Development Officer has lodged a complaint; that the petitioner and his men had destroyed the painting work and only on that basis, the present FIR came to be registered.

7. As rightly contended by the learned Government Advocate (Criminal Side), there are specific allegations against the petitioner. Just because the petitioner's name was not mentioned in the earlier compliant that too filed by the Village Panchayat President, the same cannot be taken as a ground to quash the FIR, which came to be registered subsequently on the basis of the complaint given by the Block Development Officer. Whether the petitioner and his team has destroyed the painting work or not, is a matter to be investigated and the same cannot be gone into in the present proceedings.



8. The Hon'ble Supreme Court in the case of ***State of Haryana and others Vs. Bhajan Lal and others*** reported in ***1992 SCC (Cri) 426*** has enumerated 7 categories of cases, where the power can be exercised under Section 482 of Code of Criminal Procedure and the same are extracted hereunder:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in



their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;



Crl.O.P.(MD)No.12749 of 2024

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

9. In ***Dr.Dhruvaram Murlidhar Sonar Vs. The State of Maharashtra and others*** reported in **2019 (18) SCC 191**, the Hon'ble Apex Court has specifically held that exercise of powers under Section 482 Cr.P.C. to quash the proceedings is an exception and not a rule. It is settled law that the inherent jurisdiction under Section 482 Cr.P.C. is wide but at the same time, the same is to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the Section itself.



Crl.O.P.(MD)No.12749 of 2024

10. The Hon'ble Supreme Court in ***Kaptan Singh Vs. The State of Uttar Pradesh and others*** reported in ***2021 (3) Crimes 247*** has stated that, that Court in catena of decisions has observed that the High Court is not required to go into the merits of the allegations and/or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and/or conducting the trial and that question is required to be examined keeping in view, the contents of FIR and *prima facie* materials, if any, requiring no proof and at such stage, the High Court cannot appreciate evidence nor can it draw its own inferences from contents of FIR and materials relied on.

11. At this juncture, the learned Government Advocate (Criminal Side) would submit that the first respondent, after completing the investigation, has already filed the final report on 02.07.2024 against the four persons before the jurisdictional Court and that the case was taken on file in C.C.no.170 of 2024 and the same is pending on the file of the Court of the learned Judicial Magistrate, Karaikudi.

12. Considering the above, the question of quashing the FIR at this stage does not arise at all. Hence, this Court concludes that this is not a fit



Crl.O.P.(MD)No.12749 of 2024

case to invoke Section 482 Cr.P.C., for quashing the FIR at this stage and the same is liable to be dismissed.

13. In the result, this Criminal Original Petition stands dismissed.

Consequently, connected Miscellaneous Petition is closed.

29.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
das

To

1.The Inspector of Police,
Kundrakudi Police Station,
Thirupathur Taluk, Sivagangai District.

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



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Crl.O.P.(MD)No.12749 of 2024

K.MURALI SHANKAR,J.

das

Order made in
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Dated: 29.10.2024