



Crl.O.P.(MD) No.15358 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2024

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

CRL.O.P (MD) No.15358 of 2020
and Crl.M.P(MD)No.7452 of 2020

Kannan

...Petitioner

vs.

A.S.Mathiyalagan

... Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to call for the records in connection with the calender case laid down by the respondent herein in C.C.No.166 of 2018 on the file of the Additional Mahila Court (Judicial Magistrate Level), Madurai and to quash the same.

For Petitioner : Mr.NA.Manimaran

For Respondent : No appearance

ORDER

The instant Criminal Original Petition has been filed to quash the Calender Case in C.C.No.166 of 2018 pending before the Additional Mahila Court, Madurai.



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2. The learned counsel for the petitioner would submit that the petitioner is the Inspector of Police. On 18.06.2018, when there was a traffic congestion near Tallakulam petrol bulk, he reached the spot and tried to clear the traffic congestion, and that no occurrence took place as stated by the respondent/defacto complainant. The learned counsel would further contend that the act of the petitioner trying to compromise both sides has been misunderstood by the respondent and resulted in filing the complaint under Section 200 Cr.P.C. The learned counsel would also submit that his act was only in furtherance of his official act and therefore, there is no case made out and hence, prays to quash the Calender Case in C.C.No.166 of 2018, which is pending at the stage of questioning the accused under Section 313 Cr.P.C.

3. I have given my anxious consideration to the submission made by the learned counsel for the petitioner and carefully perused the materials available on record. There is no representation on behalf of the respondent.

4. On perusal of the record the same would *prima facie* show that there are ingredients to invoke the offences alleged in the said complaint.



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While exercising the inherent jurisdiction under Section 482 Cr.P.C, the Court cannot go into the merits of the allegation. Similarly, this Court cannot go into the minute particulars of the matter.

5. In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr.**, reported in **2019 (4) SCC 351** as follows:-

" 12. So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being



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proceeded with on merits in accordance with law.

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6. Recently, the Hon'ble Supreme Court of India dealing in respect of the very same issue in the case of **Central Bureau of Investigation Vs. Arvind Khanna**, reported in **2019 (10) SCC 686** wherein, it has been held as follows:

“19. After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C. 20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for.”



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7. Further the Hon'ble Supreme Court of India also held in the case of **M.Jayanthi Vs. K.R.Meenakshi & anr**, reported in **2019 SCC online SC 2058** as follows:

"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.

13. A look at the complaint filed by the appellant would show that the appellant had incorporated the ingredients necessary for prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....."

The above judgments are squarely applicable to the facts of the case. As



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such, the points raised by the petitioner cannot be considered by this Court under Section 482 Cr.P.C.

8. Further, the case is pending at the stage of questioning the accused under Section 313 Cr.P.C and therefore, this Court is of the view that keeping this quash petition would only cause further delay in the disposal of the case before the trial Court.

9. Hence, having found no merit in this Criminal Original Petition, the same is liable to be dismissed. However, since the Calender Case is of the year 2018, the trial court is directed to dispose of the case as expeditiously as possible. Consequently, connected miscellaneous petition is also closed.

Internet: Yes./No
Index: Yes/No
CM

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To

1. The Additional Mahila Court (Judicial Magistrate Level),
Madurai

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



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C.KUMARAPPAN, J.

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