



Crl.O.P.(MD) Nos.14189 and 15127 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE K.K.RAMAKRISHNAN

Crl.O.P.(MD).Nos.14189 and 15127 of 2020

and

Crl.M.P.(MD).Nos.6562, 6566, 7260 and 7261 of 2020

Crl.O.P.(MD) No.14189 of 2020:

1. Mariappan @ Kuttimariappan
2. Murugan
3. David
4. Raju @ Kannan
5. Shamuthirapandi @ Sagul Hameed
6. Arumugam
7. Kumar ... Petitioners/Accused Nos.8 to 14

Vs.

1. The Inspector of Police,
Sankarankovil Town Police Station,
Tirunelveli District.
(In Crime No.406 of 2019) ... 1st Respondent/Complainant
2. G.Senthilkumar,
S/o.Not known,
II-Grade Constable,
Sankarankovil Town Police Station,
Tirunelveli District. ... 2nd Respondent/De-facto Complainant



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PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C.
praying to call for the records relating to the C.C.No.9 of 2020 on the file
of the Learned Judicial Magistrate, Sankarankovil against the petitioners
concerned.

Crl.O.P.(MD) No.15127 of 2020:

1. Methusala
 2. Murugan @ Rettaikottu Murugan
 3. Chelladurai
 4. Muppidathi @ Muthukutti
 5. Mariappan
 6. Thangadurai
 7. Sankar
- ... Petitioners/Accused Nos.1 to 7

Vs.

1. The Inspector of Police,
Sankarankovil Town Police Station,
Tirunelveli District.
(In Crime No.406 of 2019) ... 1st Respondent/Complainant
2. G.Senthilkumar,
S/o.Not known,
II-Grade Constable,
Sankarankovil Town Police Station,
Tirunelveli District. ... 2nd Respondent/De-facto Complainant



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PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to the C.C.No.9 of 2020 on the file of the Learned Judicial Magistrate, Sankarankovil and quash the same against the petitioners.

Crl.O.P(MD). Nos.14189 and 15127 of 2020:

For Petitioners : Mr.N.Anantha Padmanabhan,
Senior Counsel
for Mr.S.Baskar Mathuram
(in both cases)

For Respondents : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor for R1
(in both cases)
: No appearance for R2
(in both cases)

COMMON ORDER

The Petitioners are the accused No.1 to 14 in C.C.No.9 of 2020, filed these petitions to quash the proceedings in C.C.No.9 of 2020 on the file of the Learned Judicial Magistrate, Sankarankovil.



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2. According to the prosecution, the accused Nos.6 and 7 were said to have consumed alcohol and picked up quarrel with the police officers attached with Sankarankovil Town Police Station. Therefore, they took the accused Nos. 6 and 7 to the Government hospital. In the Government hospital, there was an unlawful assembly, consisting of five more persons and all the persons assaulted the officers, in order to free the accused Nos. 6 and 7 illegally from the custody of police officers. Hence, a case was registered against all the accused in Crime No.406 of 2019 for the offence under sections 147, 148, 294(b), 332, 353 and 506(ii) of IPC. After completion of the investigation, the final report was filed for the offences under sections 147, 148, 294(b), 332, 341, 353 and 506(ii) of IPC.

3. The learned Senior Counsel submitted that the allegation that accused Nos.6 and 7 consumed alcohol, is not true as per the report of the expert. The same is not controverted by the investigating officer. The learned Senior Counsel further submitted that even as per the statement under section 161 of Cr.P.C., the initial version of witnesses was that five unknown persons assembled and assaulted them. Subsequently, the



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investigating officers without any basis, added the other accused. Hence, there is no material to proceed with the trial in this case. On this ground, he seeks for quashment of the proceedings before this court.

4. The learned Additional Public Prosecutor submitted that the investigating agency collected number of materials to show that there was an unlawful assembly and also they obstructed the police officers from doing their duty in the hospital. Even if a part of prosecution case is false, the remaining part of prosecution is to be decided only in the course of trial, on the basis of evidence of the witnesses, namely the police officers. Hence, he seeks for dismissal of the quash petition.

5. This court has heard the rival submissions made by the Learned Counsel appearing on either side and perused the materials available on record.

6. On 22-09-2019 at about 07.00 pm, the accused Nos.6 and 7, obstructed L.W.2. At that time, they misbehaved with L.W.2 and L.W.2 found that they were under the influence of alcohol. Therefore, L.W.2



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took them to the Government Hospital, Sankarankovil. At that time, a mob including the petitioners unlawfully assembled and attacked the police officers to rescue accused Nos.6 and 7 from the custody of the police by using a criminal force. Therefore, the respondent police registered the case against them.

7. The investigating agency produced the material before this Court. The substratum of the incident of the prosecution case is that on 22.09.2013 at 07.00 p.m., accused Nos.6 and 7 were riding the two wheeler bearing registration No.TN-79-D-7674. At that time, L.W.2 and other officials attached with the respondent police station were discharging their duty of vehicle check up. They intercepted the said two wheeler and found that the said accused were under the influence of alcohol. Therefore, they took the said accused to the Government Hospital Sankarankovil. On knowing that, the remaining accused persons went to the said Government Hospital and attempted to free the two accused from the custody of the police officials by using criminal force. The medical records show that the said accused Nos.6 and 7 were never under the influence of alcohol. In the medical memo of the injured police



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officer, namely, Magesh kumar has stated that five unknown persons assaulted him with the tiles. The said specific statement was reproduced by the doctor who is said to have admitted and given treatment to the said Magesh kumar in the Government hospital at 11.40.p.m. Prior to that, the accused was admitted in the said hospital and he stated that one unknown police officer assaulted him. In view of the said circumstances, in the final report adding the petitioners as accused Nos.8 to 14 alleging that they also attacked the police officers is not supported by any materials. Earlier, the petition under Section 156(3) of Cr.P.C., was filed by the accused to take action against the police officers including the list witnesses for their alleged unprovoked assault on them. The same was entertained and a direction was issued to register a case. Subsequently, the said case was also transferred to the some other police station as per Crl.O.P.(MD).No.5735 of 2020 by order dated 08.06.2020. Going by the aggregate of the materials this Court finds no circumstances to constitute the offence against the petitioner under Sections 147, 148, 294(b), 332, 341, 353 and 506(ii) of IPC and this proceeding is initiated with *malafide* intention to rope in the petitioners in the above case with the false allegation for the reason that they were the instrumental in



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registering the case against them as per the direction of this Court in CrI.O.P.(MD).No.5735 of 2020. Therefore, this Court is inclined to quash the proceedings against the petitioners alone in C.C.No.9 of 2020, on the file of the learned Judicial Magistrate, Sankarankovil.

8. Accordingly, these Criminal Original petitions are allowed.

Consequently, connected miscellaneous petitions stand closed.

16.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
sbn

To

1. The Learned Judicial Magistrate,
Sankarankovil.
2. The Inspector of Police,
Sankarankovil Town Police Station,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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