



Crl.O.P.(MD).No.14477 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.03.2024

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THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

Crl.O.P.(MD).No.14477 of 2020

and

Crl.M.P.(MD).Nos.6794 and 6795 of 2020

Karikalan

... Petitioner/Accused No.1

Vs.

1.State represented by,
The Sub Inspector of Police,
Melapalayam Police Station,
Melapalayam,
Tirunelveli District.
(In Crime No.438 of 2014)

... 1st Respondent/Complainant

2.Sankarapandian,
Special Sub Inspector of Police,
Melapalayam Police Station,
Melapalayam,
Tirunelveli District.

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the charge sheet in C.C.No.50 of 2016 on the file of the learned Judicial Magistrate No.IV, Tirunelveli, Tirunelveli District and quash the same as illegal in respect of the petitioner alone.



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For Petitioner : Mr.S.M.Hameed Anwar
for Mr.G.Anto Prince
For R-1 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor
For R-2 : No appearance

ORDER

The instant Criminal Original Petition has been filed to quash the charge sheet filed in C.C.No.50 of 2016 before the learned Judicial Magistrate No.IV, Tirunelveli.

2. On perusal of the charge sheet, it is seen that the petitioner/1st accused has been charged for the offences under Sections 147, 294(b), 353, 506(i) of IPC r/w 149 of IPC.

3. The learned counsel for the petitioner would vehemently contend that there are no materials on the face of it, and that there are inherent improbabilities in the case of the prosecution. Therefore, he would submit that the charge sheet is liable to be quashed.



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4. However, the learned Additional Public Prosecutor appearing for the first respondent would submit that the date of occurrence was 30.07.2014 and the charge sheet was filed on 03.05.2015 and the same was subsequently taken on file on 11.01.2016. Therefore, he would submit that filing of the quash petition after a period of four years would only entail for a dismissal. He would further submit that there are *prima facie* material available in the charge sheet as well as in the 161(3) CrPC statement. Therefore, under the inherent jurisdiction, the same cannot be interfered with.

5. I have given my anxious consideration to the submissions on either side.

6. On the face of it, it is seen that the charge sheet was taken on file in the year 2016. Hence, the inordinate delay in filing a quash petition that too after a period of four years would definitely have to be viewed against the petitioner herein. Apart from that, on perusal of the materials submitted before this Court, there are *prima facie* material found against this



petitioner. Therefore, under the inherent jurisdiction, this Court cannot go into the factual aspect of the matter.

7. In this regard, it is useful to refer to the judgment of the Hon'ble Supreme Court 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 proceeded with on merits in accordance with law."



8. Recently, the Hon'ble Supreme Court 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.”



9. Further the Hon'ble Supreme Court 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....."



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The above judgments are squarely applicable to the facts of the case. As such, the points raised by the petitioner cannot be considered by this Court under Section 482 Cr.P.C.

Hence, this Court finds that there is no merit in this quash petition and the same is liable to be dismissed.

10. Accordingly, the Criminal Original Petition is dismissed. However, considering the long pendency of the proceedings before the Judicial Magistrate Court, this Court deems it appropriate to direct the learned Judicial Magistrate No.IV, Tirunelveli to dispose of the case in C.C.No.50 of 2016 as expeditiously as possible, preferably within a period of three (3) months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

06.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm



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To

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- 1.The Judicial Magistrate No.IV,
Tirunelveli,
Tirunelveli District.
- 2.The Sub Inspector of Police,
State,
Melapalayam Police Station,
Melapalayam,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN,J.

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