



Crl.O.P.(MD)No.14664 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2024

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD)No.14664 of 2022
and Crl.M.P.(MD)Nos.9521 & 9522 of 2022

1.S.Sakthivel

2.S.Balamurugan

... Petitioners

Vs.

1.The Inspector of Police,
Karivalamvanthanallur Police Station,
Tenkasi District.

2.S.Narayanan

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records connected to the case in STC.No.608 of 2022 pending on the file of the learned Judicial Magistrate, Sankarankoil and quash the same as illegal.

For Petitioners : Mr.K.Dinesh

For R1 : Mr.S.Manikandan,
Government Advocate (Crl. Side)



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ORDER

This Criminal Original Petition has been filed to quash the charge sheet in STC.No.608 of 2022 pending on the file of the learned Judicial Magistrate, Sankarankoil.

2.The case of the prosecution is that there was a pathway dispute between the first petitioner and the second respondent. On 15.01.2022, the defacto complainant's wife was dumping garbage, the first petitioner took photo and when the same was questioned by the defacto complainant, the first petitioner abused him in filthy language and slapped him. Therefore, the second respondent went to Police Station to lodge a complaint, at that time, the petitioners herein waylaid him and threatened him. Based on the complaint, a case in Cr.No.29 of 2022 has been registered for the offences punishable under Sections 294(b), 352 and 506(2) IPC. Upon completion of investigation, the first respondent filed the final report, which was taken on file in STC.No.608 of 2022 by the learned Judicial Magistrate, Sankarankoil. Challenging the same, the present petition has been filed by the petitioners.



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3.The learned counsel appearing for the petitioners submitted that the petitioners herein are father and son. In respect of the first petitioner, there was a wordy quarrel between him and the second respondent and hence, this Court may dispense with his personal appearance before the trial Court. He further submitted that there is no allegations made as against the second petitioner and he was not present in the scene of occurrence. He was implicated only in order to wreck vengeance. In order to support his contention, the learned counsel appearing for the petitioners produced CCTV footages. Accordingly, he prayed to quash the impugned proceedings as far as the second petitioner is concerned.

4.The learned Government Advocate(Crl.side) appearing for the first respondent fairly admitted that at the time of occurrence A1, defacto complainant and his family members only present and no persons available along with A1.

5.Heard the learned counsel on either side and perused the materials available in the records.



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6.This Court perused the footages produced by the learned counsel appearing for the petitioners. On perusal of the same reveals that the second petitioner was not present in the scene of occurrence. Hence, forcing the second petitioner to face trial is not sustainable one. That apart, as per decision of the Hon'ble Supreme Court in ***N.S.Madhanagopal & Anr. Vs. K.Lalitha*** reported in ***2022 LiveLaw (SC) 844***, in order to attract the offence under Section 294(b) IPC, there must be a proof to establish that the words uttered by the accused person annoyed others. In this case, there is no ingredients to attract an offence under Section 294(b) IPC. Accordingly, the proceedings in STC.No.608 of 2022 pending on the file of the learned Judicial Magistrate, Sankarankoil is quashed insofar as the second petitioner is concerned.

7.Insofar as the first petitioner is concerned, this Court is not inclined to quash the proceedings. However, taking into consideration the request as made by the learned counsel for the petitioners, the appearance of the first petitioner before the trial court 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



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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.

8.In the result, this criminal original petition is partly-allowed.

Consequently, connected miscellaneous petitions are closed.

12.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Judicial Magistrate, Sankarankoil
- 2.The Inspector of Police,
Karivalamvanthanallur Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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