



CrI.O.P.(MD)No.12774 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.08.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

CrI.O.P.(MD)No.12774 of 2024

and

CrI.M.P.(MD)No.7875 of 2024

1.Naina Mohamed Oli

2.JamalYusuf

: Petitioners/A1 and A2

Vs.

1.The State of Tamil Nadu rep.by
The Inspector of Police,
Kadayanallur Police Station,
Tenkasi District.
Crime No.351 of 2017.

2.Aslam

: Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records connected with the charge sheet in S.T.C.No.655 of 2019 pending on the file of the learned Judicial Magistrate, Tenkasi in respect of FIR in Crime No.351 of 2017 on the file of the first respondent and quash the same so far as the petitioners are concerned as illegal.

For Petitioners : Mr.K.Navaneetharaja



Crl.O.P.(MD)No.12774 of 2024

For Respondents : Mr.K.Sanjai Gandhi

Government Advocate (Criminal Side)
for R1.

ORDER

This Criminal Original Petition filed, under Section 528 of BNSS, seeking orders, to call for the records connected with the charge sheet in S.T.C.No.655 of 2019 pending on the file of the learned Judicial Magistrate, Tenkasi, in respect of FIR in Crime No.351 of 2017 on the file of the first respondent and quash the same so far as the petitioners are concerned as illegal.

2. It is seen from the records that on the basis of the complaint given by the second respondent, FIR came to be registered in Crime No.351 of 2017 for the offence under Sections 294(b), 323 and 506(i) IPC and after completing investigation, the first respondent has laid the final report and the case was taken on file in S.T.C.No.655 of 2019 and the same is pending before the learned Judicial Magistrate, Tenkasi.

3. The case of the prosecution is that on 18.09.2017, when the defacto complainant was standing near Kothari Rice Shop, Kadayanallur and at that



Crl.O.P.(MD)No.12774 of 2024

time, the petitioners/accused rode their bike near the defacto complainant and when the same was questioned, the petitioners had abused him in filthy language, attacked him and caused criminal intimidation.

4. The learned counsel for the petitioners would submit that there is no *prima facie* case against the petitioners and the first respondent has implicated them arbitrarily; that the complaint itself did not disclose any cognizable offence as against the petitioners; that the entire complaint is vague and bald; that there are no specific overtact against the petitioners for the alleged offences and that there are no materials to show that the petitioners had caused criminal intimidation.

5.The learned counsel for the petitioners would submit that in the statement recorded under Section 161 Cr.P.C., the complainant has not given the correct names of the accused, but he has stated that he has given wrong names.

6. The learned Government Advocate (Criminal Side) appearing for the State would submit that the above aspects, by no stretch of imagination can be



Crl.O.P.(MD)No.12774 of 2024

taken as a reason or ground to quash the charge sheet as the same cannot be gone into at this stage and are matter for trial. He would further submit that there are sufficient materials to proceed against the petitioners, the first respondent has rightly laid the charge sheet against all the accused including the petitioner.

7. 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;

(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.”

8. 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.



WEB COPY

9. 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.

10. A cursory perusal of the final report and the statements filed along with the final report would make it clear that there existed a *prima facie* case to proceed against the petitioner and it is a matter for trial.

11. Considering the above and also the submission made by the learned Government Advocate (Criminal Side) and also taking note of the fact that this is not a fit case to quash the charge sheet against the petitioners. Since the case is pending from 2017, the trial Court is directed to complete the trial and dispose of the case in S.T.C.No.655 of 2019 as expeditiously as possible.



Crl.O.P.(MD)No.12774 of 2024

WEB COPY

12. With the above direction, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed.

06.08.2024

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

To

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



WEB COPY



Crl.O.P.(MD)No.12774 of 2024

K.MURALI SHANKAR,J.

das

Crl.O.P.(MD)No.12774 of 2024

and

Crl.M.P.(MD)No.7875 of 2024

Dated: 06.08.2024