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CRL.O.P.(MD).No.12787 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.08.2024

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.O.P.(MD).No.12787 of 2024

and

CRL.M.P(MD)No.7895 of 2024

1.Ramamurthy

2.Nambu Pitchai

3.Kathu @ Ganeshan

4.Kalidass @ Haridass

5.Saravanan

6.Nambu Rajan

: Petitioners/A1 to A6

Vs.

1.The State rep.by

The Inspector of Police,
Rameshwaram Town Police Station,
Ramanathapuram District.
FIR.No.71 of 2020.

: 1st Respondent/Complainant

2.Joseph

: 2nd Respondent/Defacto
Complainant



CRL.O.P.(MD).No.12787 of 2024

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records relating to S.T.C.No.139 of 2024 on the file of the District Munsif cum Judicial Magistrate Court, Rameshwaram and quash the same as against the petitioners are concerned.

For Petitioners : Mr.M.Karthikeyavenkitachalapathy

For Respondents : Mr.K.Sanjai Gandhi,
Government Advocate (Criminal Side)
for R1.

ORDER

The Criminal Original Petition is filed seeking orders, to call for the records relating to S.T.C.No.139 of 2024 on the file of the District Munsif cum Judicial Magistrate Court, Rameshwaram and quash the same as against the petitioners are concerned.

2. The case of the prosecution is that the second respondent converted his residential house as religious prayer hall and used to conduct prayer meetings on Sundays; that due to curfew proclamation on 22.03.2020, the second respondent rescheduled his prayer meeting on 21.03.2020 at 10.00 am; that when the second respondent along with his brothers were conducting the prayer, the petitioners/accused had assembled unlawfully, trespassed into the house of the second respondent,



abused him in filthy language and assaulted him and also caused criminal intimidation.

3. On the basis of the complaint lodged by the second respondent, F.I.R., came to be registered in Crime No.71 of 2020 for the alleged offence under Sections 147, 448, 294(b), 323 and 506(i) I.P.C., and after completing investigation, charge sheet came to be filed and the case was taken on file in S.T.C.No.139 of 2024 on the file of the District Munsif cum Judicial Magistrate Court, Rameshwaram.

4. The learned Government Advocate (Criminal Side) appearing for the State would submit that the occurrence witnesses in their statements have specifically implicated the involvement of the petitioner in the occurrence and that since there were sufficient materials to proceed against the petitioner, the first respondent has rightly laid the charge sheet against all the accused including the petitioner.

5. 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:-

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“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.”

6. 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.

7. 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.

8. The learned counsel for the petitioners would submit that the incident as alleged by the defacto complainant was not at all occurred and that the petitioners have lodged a complaint against the second respondent, since the second respondent has conducted prayer in his residence, but they have lodged a false complaint against the petitioners. He would further submit that though FIR came to be registered on 21.03.2020, the same came to be received by the learned Judicial Magistrate on 30.12.2020 and that the final report, dated 25.02.2022 came to be filed on 02.03.2023.

9. No doubt, as rightly contended by the learned counsel for the petitioner, there is a delay in sending the FIR to the concerned Court, but that by itself is not a ground to quash the charge sheet.

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.



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11. At this juncture, the learned counsel for the petitioner would submit that the petitioners may be directed to take all the defence now taken before this Court, before the trial Court.

12. Considering the above, this Court concludes that this is not a fit case to invoke Section 482 Cr.P.C, for quashing the charge sheet at this stage and as such, the same is liable to be dismissed.

13. In the result, the Criminal Original Petition is dismissed. The petitioners are at liberty raise all the pleas now canvassed, before the trial Court. Consequently, connected Miscellaneous Petition is closed.

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

- 1.The District Munsif cum Judicial Magistrate Court,
Rameshwaram.
- 2.The Inspector of Police,
Rameshwaram Town Police Station,
Ramanathapuram District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

das

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