



Crl.O.P.(MD)No.13016 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.08.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.13016 of 2024

and

Crl.M.P(MD)No.8011 and 8012 of 2024

1.A.Selvakumar

2.S.Thillaraja

3.R.Ramesh Kannan

: Petitioners/A1 to A3

Vs.

1.State rep.by the Inspector of Police,
Kenikarai Police Station,
Ramanathapuram District.
Crime No.69 of 2018.

: Respondent/Complainant

2.Mohamed Ithris

: Respondent/ Defacto
Complainant

PRAYER : Criminal Original Petition filed under Section 528 of B.N.S.S., to call for the records pertaining to the impugned charge sheet in C.C. No.100 of 2018 on the file of the Judicial Magistrate Court No.II, Ramanathapuram in Crime No.69 of 2018 under Sections 294(b), 323 and 324 IPC on the file of the first respondent and quash the same as illegal.

For Petitioners : Mr.I.Pinaygash



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

ORDER

This Criminal Original Petition has been filed, invoking Section 528 B.N.S.S., seeking orders, to call for the records pertaining to the impugned charge sheet in C.C.No.100 of 2018 on the file of the Judicial Magistrate Court No.II, Ramanathapuram in Crime No.69 of 2018 under Sections 294(b), 323 and 324 IPC on the file of the first respondent and quash the same as illegal.

2. The case of the prosecution is that the first petitioner and the defacto complainant are working as agents in a private concern and there existed some enmity between them, due to which, the first petitioner along with others abused the defacto complainant, attacked him with hands and caused injuries.

3. It is evident from the records that on the basis of the complaint lodged by the second respondent, FIR came to be registered in Crime No.69



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of 2018 for the alleged offences under Sections 147, 148, 294(b), 323 and 324 IPC and after completing the investigation, charge sheet came to be filed for the offences under Sections 294(b), 323 and 324 of IPC.

4. The main contention of the petitioner is that the defacto complainant has lodged the complaint after a delay of 12 days and there is a delay of two days in sending the FIR to the concerned Court.

5. As rightly pointed out by the learned Government Advocate (Criminal Side), there are specific allegations levelled against the petitioner in the statement recorded under Section 161(3) Cr.P.C. Even assuming for argument sake, there is some delay in filing the complaint and sending the FIR to the concerned Court, that by itself is not a ground to quash the charge sheet at this point of time.

6. 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.”



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7. 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.

8. 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.



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9. 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.

10. 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 petitioner. Hence, this Court concludes that the Criminal Original Petition is devoid of merits and the same is liable to be dismissed.

11. In the result, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petitions are closed.

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NCC : yes/No
Index : yes/No
Internet : yes/No
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K.MURALI SHANKAR,J.

das

To

- 1.The Judicial Magistrate Court No.II,
Ramanathapuram.
2. The Inspector of Police,
Kenikarai Police Station,
Ramanathapuram District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Crl.O.P.(MD)No.13016 of 2024
and
Crl.M.P(MD)No.8011 and 8012 of 2024

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