



Crl.O.P.(MD)No.13306 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.13306 of 2024
and
Crl.M.P.(MD)No.8224 of 2024

Mohammed Asiq Raja

... Petitioner

Vs.

1.The Inspector of Police,
Thiruverumbur Police Station,
Trichy District.
(Crime No.456 of 2023)

2.Dhanasekharan

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records pertaining to the above First Information Report in Crime No.456 of 2023 on the file of the first respondent police and quash the same as against the petitioner concerned.

For Petitioner : Mr.B.Jameelarasu

For R1 : Mr.P.Kottaichamy
Government Advocate (Crl. Side)



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ORDER

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This criminal original petition has been filed seeking orders to quash the first information report in Cr.No.456 of 2023 on the file of the first respondent Police.

2.The case of the prosecution is that the Village Administrative Officer, Ellaikudi Village, has lodged a complaint alleging that he has received information from the public with regard to the selling drugs at Ellakudi and Kokkarasampettai area and on that basis, he visited the said area on 13.10.2023 along with his Village Assistant and enquired from the public, that his enquiry revealed that there are number of persons assembled at Thoongamunji tree nearby Kokkarasampettai coconut thope and those persons used to quarrel among themselves, due to injecting themselves with drugs, that it was alleged that the drugs were handed over to one Harshat and Mohammed Asik Raja for selling without any permission or license, that on the basis of the information received, the Village Administrative Officer had again visited the said place on 14.10.2023 along with his Village Assistant at about 10.00 am., and found that some persons were injecting themselves with drugs.



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3.It is seen from the records that on the basis of the complaint given by the second respondent, FIR in Cr.No.456 of 2023 for the offences punishable under Section 328 IPC, Section 18(c) of the Drugs & Cosmetics Act, 1940 and Section 77 of the Juvenile Justice (Care & Protection of Children) Act, 2015.

4.The main contention of the petitioner is that in FIR, nowhere it has been stated that the petitioner was involved in selling of drugs, that only on the basis of the hear-say statement from the public, the defacto complainant lodged the complaint implicating the petitioner, that there is no overt act as against the petitioner and that Section 18(c) of the Drugs and Cosmetics Act, 1940 deals with manufacture for sale or for distribution or sell or stock or exhibit or offer for sale or distribute any drug, but in the present case, the petitioner did not involve in any manufacturing activities.

5.As rightly contented by the learned Government Advocate(Crl.side), the allegations levelled against the accused including the petitioner are very serious and are affecting the youth and children and the same are required to be investigated.



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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



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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;



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(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;

1. 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.”

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.



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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.

9.As rightly contended by the learned Government Advocate(Crl.side), the pleas raised/canvassed by the petitioner, by no stretch of imagination, can be considered as reasons/grounds to quash the first information report and the same are matter for investigation. Except the above, the petitioner has not shown any other valid reason or ground to quash the first information report. Therefore, this petition is devoid of merit and the same is liable to be dismissed.

10.Accordingly, this criminal original petition is dismissed.



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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 Inspector of Police,
Thiruverumbur Police Station,
Trichy District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

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