



Crl.O.P.(MD)No.14247 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.14247 of 2024
and
Crl.M.P.(MD)No.8839 of 2024

Kaviarasan

... Petitioner

Vs.

1.The Inspector of Police,
Lalapet Police Station,
Karur District.

2.Prabu
Village Administrative Officer,
Chinnthalavadi Village,
Krishnarayapuram Taluk,
Karur District.

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS,
to call for the records pertaining to the FIR in Crime No.445 of 2020 on
the file of the first respondent police and quash the same.

For Petitioner : Mr.M.Saravanan

For Respondents : Mr.P.Kottai Chamy
Government Advocate (Crl. Side)



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ORDER

The Criminal Original Petition has been filed, invoking Section 528 B.N.S.S., seeking orders to quash the FIR in Crime No.445 of 2020 pending on the file of the first respondent.

2. The petitioner is the sole accused in Crime No.445 of 2020 on the file of Lalapet Police Station, Karur.

3. On the basis of the complaint lodged by the second respondent, FIR came to be registered in Crime No.445 of 2020 against the petitioner for the alleged offences under Section 379 IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957.

4. The case of the prosecution is that on 13.08.2020 at about 11.00 p.m., the petitioner without valid permit transported gravel sand in a tractor tipper bearing Registration No.TN-29-T-7760.

5. The learned Government Advocate (Criminal Side) appearing for the respondents would submit that in the FIR, it has been specifically



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stated that the petitioner had transported 1 unit of gravel sand without valid permit. He would further submit that the complaint discloses cognizable offence and as such, the same has to be investigated and considering the nature of the allegations and the existence of *prima facie* case, this is not a fit case for quashing the FIR at this stage.

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



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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



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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.”

7. In *Dr.Dhruvaram Murlidhar Sonar Vs. The State of Maharashtra and others* reported in 2019 (18) SCC 191, the Hon'ble



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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.

9. The learned Government Advocate (Criminal Side) appearing



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for the respondents would submit that the petitioner, without having any permit or transmit licence, has transported the sand and that is why the second respondent/Village Administrative Officer has lodged the complaint and on that basis, FIR came to be registered.

10. The learned counsel appearing for the petitioner would submit that the petitioner has taken sand for the contractor but without examining the contractor, they have lodged the complaint against him. The petitioner is at liberty to give a representation with regard to the contractor but that by itself is not a ground to quash the FIR at this stage.

11. It is pertinent to note that if the petition under Section 528 B.N.S.S., was filed at the stage of FIR, the allegations in the FIR/complaint only are required to be considered and whether a cognizable offence is disclosed or not is required to be considered.

12. In the case on hand, as rightly contended by the learned Government Advocate (Criminal Side), a cursory perusal of the FIR makes out a *prima facie* case against the accused and it is a matter for



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investigation and as such, the question of quashing the FIR at this stage does not arise at all. Hence, this Court concludes that this is not a fit case to invoke Section 528 B.N.S.S., for quashing the FIR at this stage and the same is liable to be dismissed.

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

29.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
csm

To

- 1.The Inspector of Police,
Lalapet Police Station,
Karur 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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Order made in
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