



Crl.O.P.(MD)No.14668 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.09.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.14668 of 2024

1.Mohammed Meera

2.Mohammed Ismail

3.Kamaludeen @ Kamaldeen

... Petitioners

Vs.

1.State rep. by
The Inspector of Police,
CBCID South,
Pudukkottai District.

2.Sakubar Ali @ M.D.Jafar Ibrahim

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 B.N.S.S, to quash the proceedings in P.R.C.No.4 of 2024 on the file of the learned Judicial Magistrate No.II, Pudukkottai against the petitioners are concerned.

For Petitioners : Mr.P.Ganapathi Subramanian

For R1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)



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ORDER

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This Criminal Original Petition has been filed, invoking Section 528 B.N.S.S., seeking orders to quash the charge sheet in P.R.C.No.4 of 2024 pending on the file of the Judicial Magistrate No.II, Pudukkottai.

2. The case of the prosecution is that at the instigation of the third petitioner/third accused, the petitioners 1 and 2/accused 1 and 2 had trespassed into the second respondent's house and damaged the CCTV cameras worth about Rs.30,000/-.

3. On the basis of the complaint lodged by the second respondent, FIR came to be registered in Crime No.2 of 2022 for the alleged offences under Sections 147, 294(b), 447, 448, 380, 506(1) and 451 IPC and Section 3 of TNPPDL Act r/w Section 109 IPC and after completing the investigation, the first respondent has filed the charge sheet against the petitioners and the case was taken on file in P.R.C.No.4 of 2024 on the file of the Judicial Magistrate No.II, Pudukkottai for the alleged offences under Sections 147, 294(b), 447, 448, 380, 506(1) and 451 IPC and Section 3 of TNPPDL Act r/w Section 109 IPC.



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4. The main contention of the petitioners is that the property belonged to the third petitioner and civil suit is pending before the Principal District Court, Pudukkottai, that the second respondent himself after registration of the FIR, has given a report stating that the third petitioner was not at all involved in the occurrence and that there is absolutely no evidence to show that the petitioners have damaged the CCTV cameras in the house. Even assuming that the second respondent has taken a U-turn, it is for the trial Court to appreciate the evidence given by him during trial and that by itself is not a ground to quash the charge sheet at this point of time. Even assuming that the third petitioner is the owner of the property, but according to the second respondent, when he was in possession, the petitioners had trespassed into the house and caused damages to the tune of Rs.30,000/-. Except the above, the petitioners have not canvassed any other reasons or ground to impugn the charge sheet.

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



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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



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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



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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



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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. 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 petitioners.

9. Considering the above and also taking note of the fact that this is not a fit case to quash the charge sheet against the petitioners, this Court is not inclined to grant the relief claimed. Hence, this Court concludes that the petition is devoid of merit and the same is liable to be dismissed.



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10. In the result, this Criminal Original Petition stands dismissed.

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

To

- 1.The Judicial Magistrate No.II,
Pudukkottai.
- 2.The Inspector of Police,
CBCID South,
Pudukkottai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Order made in
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