



CrI.O.P.(MD)No.16466 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.03.2024

CORAM:THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CrI.O.P.(MD) No.16466 of 2022 and

CrI.M.P.(MD).Nos.10951 and 10953 of 2022

Michelraj @ Michaelraj

... Petitioner/Accused

Vs.

1.State rep. by Inspector of Police
Alangulam Police Station,
Tenkasi District.

2.Jesukaran Salamon

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the chargesheet in C.C.No.89 of 2021, on the file of the Judicial Magistrate, Alangulam and quash the same as against the petitioner concerned.

For petitioner

: Mr.A.Sankarasubramanian

For Respondents

: Mr.P.Kottaisamy for R1
Mr.T.A.Ebenezer for R2



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ORDER

This petition has been filed seeking to quash the charge sheet in C.C.No.89 of 2021 filed for the offence punishable under Sections 294(b), 447, 427 and 506(II) IPC on the file of the learned Judicial Magistrate, Alangulam.

2. The case of the prosecution is that the properties in question were purchased by the 2nd respondent/de-facto complainant and from the date of purchase, he was in possession and enjoyment. However, without any right or title, the petitioner's brother said to have filed a civil suit against the de-facto complainant, which was decreed in favour of the de-facto complainant. Pursuant to the said decree, while the 2nd respondent was fencing his properties, the petitioner said to have entered into the said land and damaged the fencing and also attacked the de-facto complainant. Hence, on the complaint preferred by him, a case in Crime No.175/2019 was registered and upon completion of investigation, charge sheet has been filed in C.C.No.89/2021 under Sections 294(b), 447, 427, 506(II) IPC, for quashing the same, the petitioner is are before this court.



3. The learned counsel for the petitioner would submit that the petitioner has nothing to do with the alleged and he has been falsely implicated. He would further submit that since the 2nd respondent executed a sale agreement with the brother of the petitioner and subsequently, gone back his words and hence, a civil suit came to be filed. It is further submitted that the suit was decreed in favour of the petitioner's brother, against which, the de-facto complainant preferred first appeal and the appeal was allowed in favour of the 2nd respondent, against which, the brother of the petitioner preferred second appeal before this court and pending the appeal, the brother of the petitioner died and the petitioner and others were impleaded as legal heirs in the second appeal and the same is pending. The learned counsel would further submit that when both the parties have filed civil suits and appeals, it is not known how the de-facto complainant has given a complaint by giving a criminal colour pending the appeal. Hence, on these grounds, he prays for allowing this petition.

4. The learned Government Advocate (Crl. Side) would submit that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioner has to be gone into only at



the time of trial and hence, he prayed for dismissal of the petition.

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5. In the above circumstances, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioner, if he is subjected to due trial as sufficient opportunity would be given to them to put forth his defence. The petitioner cannot be let by quashing the charges framed against them as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against him. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)***.

6. For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.89 of 2021, pending on the file of the learned Judicial Magistrate, Alangulam. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petitions are dismissed.

7. The learned counsel appearing for the petitioner submitted that this Court may consider dispensing with the personal appearance of the petitioner before the court below. Taking into consideration the request



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as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

12.03.2024

Index : Yes/No

Internet : Yes/No

RR

To

1. The Judicial Magistrate, Alangulam

2. The Inspector of Police
Alangulam Police Station,
Tenkasi District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI. J.

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