



Crl.O.P.(MD)No.21859 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2024

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.21859 of 2018

and

Crl.M.P. (MD) Nos.10163 and 10164 of 2018

S.Alagarsamy

... Petitioner

Vs.

R.Veerasekar

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the entire proceedings related to the private complaint as made in Learned District Munsif Cum Judicial Magistrate, Karaikudi, Sivagangai District in connection with the C.C.No.129/2018 and quash the same as illegal and devoid of merits.

For Petitioner : Mr.R.Aravindan

For Respondent : Mr.G.Karuppasamy Pandian
for M/s.R.Yamuna

ORDER

This petition has been filed challenging the proceedings in C.C.No.129 of 2018 pending on the file of the learned District Munsif-cum-Judicial Magistrate, Karaikudi.



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2.The respondent filed a private complaint before the Court below stating that on 15.01.2016 at about 7.30 a.m., he felt unwell and therefore, he asked his son to get medicines for him. The son went out of the house to purchase medicines. At that point of time, A1 to A3 who are the police personnel in a drunken mood are said to have assaulted the son of the respondent and abused him in filthy language. On the same day at about 8.00 p.m., nearly 15 police personnel including the petitioner trespassed into the house and started attacking the respondent and his son indiscriminately. They also abused the wife and daughter of the respondent in filthy language. Later, the respondent and his son were taken to the police station and they were further assaulted. In this incident, the wife was also injured and she was taken to the Government hospital, Karaikudi, to take treatment. With all these allegations, the private complaint has been filed as against six accused persons, who were all police personnel. This quash petition has been filed by A6.

3.The present petition was entertained by this Court mainly on the ground that the Court below has taken cognizance of the private



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complaint without a sanction. The issue regarding sanction was ultimately decided by the Division Bench of this Court and the law was pronounced in ***Karthikeyan v. G.Thangapandian***, reported in ***2024-2-L.W. (Crl.) 321***. Hence, the issue of sanction pales into insignificance in the present case. As a result, the matter has to be dealt with only on merits.

4.Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondent.

5.In the instant case, the offence that is said to have been committed by the accused persons are punishable more than two years and therefore, a warrant trial is contemplated. Since the respondent has chosen to file a private complaint in this case, the procedure contemplated under Sections 244 to 247 has to be followed.

6.It is seen from records that after the issuance of process to the accused persons, pre-charge evidence was recorded by the Court below under Section 244 of Cr.P.C. At this stage, nearly seven witnesses



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were examined on the side of the respondent. For reasons best known to the accused persons, none of these witnesses were cross examined even though such right of cross examination is available even at the pre-charge stage. Hence, the solid material that is now available before the Court is the specific allegations that have been made by seven witnesses with regard to the incident. They have explained the manner in which the incident had taken place. For the present, this evidence cannot be discredited by this Court since it has been let in before the competent Court which has recorded the evidence at the pre-charge stage.

7.In view of the above, it cannot be said that there are absolutely no materials against the petitioner in order to enable the respondent to proceed further with the private complaint. Therefore, this Court cannot exercise its jurisdiction under Section 482 of Cr.P.C. Ultimately, after the pre-charge evidence is taken, the trial Court has to decide as to whether any case has been made out against the accused persons and if so, frame the charges against the accused persons. If not, the accused persons will be discharged under Section 245 of Cr.P.C. hence, this Court consciously does not want to render any findings on the



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merits of the case. It will be safer for the trial Court to deal with the same based on the evidence that has been recorded at the pre-charge stage.

8.In the light of the above discussions, this Court does not find any ground to interfere with the proceedings pending before the Court below in C.C.No.129 of 2018 and all the grounds that have been raised in this petition can always be raised before the Court below and the same will be considered on its own merits and in accordance with law.

9.Accordingly, this Criminal Original Petition stands dismissed. The trial Court shall try to complete the proceedings in C.C.No.129 of 2018 within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

10.After the order was pronounced, the learned counsel for the petitioner requested this Court to dispense with the presence of the petitioner. Considering the said request, the presence of the petitioner is



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dispensed with and he shall be present before the Court at the time of framing of charges, questioning under Section 313(1)(b) of Cr.P.C. and at the time of passing of a final judgment and as and when required by the trial Court. The Advocate representing the petitioner will cross examine the witnesses on the same day they are examined in chief and the petitioner will not dispute the identity of any of the witnesses. The petitioner is also directed to execute a bond under Section 88 of Cr.P.C. before the trial Court.

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NCC	:	Yes / No
Index	:	Yes / No
Internet	:	Yes / No
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N.ANAND VENKATESH,J.

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