



Crl.O.P.(MD)No.16378 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.10.2024

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THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.16378 of 2024

and

Crl.M.P.(MD)Nos.10306 and 10309 of 2024

Annamalai

... Petitioner

Vs.

1.The State rep. by
The Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram District.
(Crime No.292 of 2000)

2.N.Oorkavalan

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 B.N.S.S., to call for the records pertaining to the impugned charge sheet in P.R.C.No.24 of 2019 on the file of the District Munsif cum Judicial Magistrate, Kadaladi in Crime No.238 of 1998 dated 16.09.1998 under Sections 341, 427 IPC r/w Section 3 of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992 on the file of the respondent police and quash the same as illegal in so far as the petitioner/accused No.1 is concerned.



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

ORDER

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.24 of 2019 pending on the file of the District Munsif cum Judicial Magistrate, Kadaladi.

2. The case of the prosecution is that on 16.09.1998, when the second respondent/defacto complainant was plying the Government bus from Thoothukudi to Kamudhi depot, at about 09.00 p.m. near the bus stop of Pillyarkulam, the accused including the petitioner had damaged the bus glasses with a stick and ran away.

3. On the basis of the complaint lodged by the second respondent, FIR came to be registered in Crime No.238 of 1998 for the alleged offences under Sections 147 and 341 IPC and Section 3 of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992 and after



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completing the investigation, charge sheet came to be filed against four accused including the petitioner for the offences under Sections 341 and 427 IPC and Section 3 of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992 and the case was taken on file in P.R.C.No.30 of 2000 on the file of the Judicial Magistrate, Mudukulathur and since the petitioner and the fourth accused remained absconding, the case was ordered to be split up against the accused 2 and 3 and after committal, the case was taken on file in S.C.No.89 of 2014 and the same was made over to the Subordinate Court, Paramakudi and that thereafter the case as against the petitioner and the fourth accused was transferred to the District Munsif cum Judicial Magistrate, Kadaladi and was renumbered as P.R.C.No.24 of 2019.

4. It is not in dispute that trial was conducted in S.C.No.89 of 2014 and the learned Subordinate Judge, after trial, has passed a judgment in S.C.No.89 of 2014 dated 15.06.2016 acquitting the accused.

5. The main contention of the petitioner is that since the other accused after full-fledged trial came to be acquitted, the petitioner is also



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entitled to get the same.

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6. This Court is not in agreement with the contention of the petitioner. Just because the other two accused were acquitted after full-fledged trial, the petitioner, who remained absconding, cannot be given benefit of acquittal and he has to face the trial. Except the above, the petitioner has not canvassed any other reason or ground to quash the charge sheet.

7. 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



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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 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;



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(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 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.”



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8. 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.

9. 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.



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10. 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 petitioner.

11. Considering the above and also the submission made by the learned Government Advocate (Criminal Side) and also taking note of the fact that this is not a fit case to quash the charge sheet against the petitioner, this Court is not inclined to grant the relief claimed.

12. At this juncture, the learned counsel appearing for the petitioner would submit that the trial Court may be directed to dispose of the case at an earlier date.

13. Since the case is now pending in P.R.C. stage, the learned District Munsif cum Judicial Magistrate, Kadaladi is directed to commit the case in P.R.C.No.24 of 2019 within a period of two weeks from the date of receipt of a copy of this order and after committal, made over to the Sessions Court and after taking the case on file, the learned Sessions Judge is directed to proceed with the trial and dispose of the case as



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expeditiously as possible.

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14. With the above direction, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petitions are closed.

03.10.2024

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

To

- 1.The District Munsif cum Judicial Magistrate,
Kadaladi.
- 2.The Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram District.
- 3.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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