



CrI.O.P.(MD)No.14725 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.09.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

CrI.O.P.(MD)No.14725 of 2024

and

CrI.M.P.(MD)Nos.9201 & 9202 of 2024

1.Vinotha

2.Velmurugan

... Petitioners

Vs.

1.The Inspector of Police,
Periyakulam Police Station,
Theni District.
(In Crime No.132 of 2023)

2.Kalaivani

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 B.N.S.S., to call for the records relating to the charge sheet laid by the first respondent in C.C.No.51 of 2024 on the file of the learned Judicial Magistrate, Periyakulam, Theni District and quash the same.

For Petitioners : Mr.S.Balaji

For R1 : Mr.K.Sanjai Gandhi,
Government Advocate(CrI.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 complaint in C.C.No.51 of 2024 on the file of the learned Judicial Magistrate, Periyakulam, Theni District.

2.The case of the prosecution is that the first petitioner and the second respondent's son are husband and wife, that due to matrimonial dispute, they are living separately, that the petitioners herein trespassed into the house of the defacto complainant and tried to take some articles and that when the same was questioned by the defacto complainant, the accused persons abused her in filthy language and also attacked her and hence, the defacto complainant lodged a complaint.

3.It is seen from the records that on the basis of the complaint given by the second respondent, FIR came to be registered in Cr.No.132 of 2024 and after completing investigation, final report came to be filed and the case was also taken on file in C.C.No.51 of 2024 for the



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offences punishable under Sections 294(b), 323 and 448 IPC, by the learned Judicial Magistrate, Periyakulam, Theni District.

4.The main contention of the petitioner is that the second respondent, who is the mother-in-law of the first petitioner, has lodged a false complaint, only in order to wreck vengeance and on that basis, FIR came to be registered, that the first respondent, without considering the above aspects, has filed the final report and that there is no external injuries.

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 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



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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 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



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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 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



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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 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,



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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.As rightly contended by the learned Government Advocate(Crl.side), the pleas raised/canvassed by the petitioners, by no stretch of imagination, can be considered as reasons/grounds to quash the charge sheet and the same are matter for investigation.

9.A cursory perusal of the complaint would make it clear that there existed a *prima facie* case to proceed against the petitioners and the grounds now raised by the petitioners are all matter for trial and the same cannot be canvassed before this Court. Except the above, the petitioners have not shown any other valid reason or ground to quash the charge sheet. Therefore, this petition is devoid of merit and the same is liable to be dismissed.

10.Considering the above and also taking note of the fact that this is not a fit case to quash the complaint in C.C.No.51 of 2024 pending on



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the file of the learned Judicial Magistrate, Periyakulam, Theni District against the petitioners, this Court concludes that the petition is devoid of merit and the same is liable to be dismissed.

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

Consequently, connected Miscellaneous Petitions are closed.

04.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Judicial Magistrate,
Periyakulam,
Theni District.
- 2.The Inspector of Police,
Periyakulam Police Station,
Theni 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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