



Crl.O.P.(MD)No.16313 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 01.10.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.16313 of 2024

and

Crl.M.P(MD)no.10267 of 2024

R.Kannan

: Petitioner/A3

Vs.

1.State represented by
The Inspector of Police,
V.K.Puram Police Station,
Vickramasingapuram,
Tirunelveli District.
(Crime No.276 of 2023)

2.S.Manimurugan

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS.,
to call for the records connected with regard to the Crime in Crime No.276
of 2020, dated 27.05.2020 on the file of the first respondent and quash the
same.

For Petitioner : Mr.T.Ganeshperumal

For Respondents : Mr.P.Kottai Chamy
Government Advocate (Crl. Side)
for R1.



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ORDER

This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking orders, to call for the records in Crime No.276 of 2020, dated 27.05.2023 on the file of the first respondent and quash the same.

2. The case of the prosecution is that on 25.05.2020 at about 06.30 pm, one Murali, has celebrated his birthday function along with ten members in Gerogepuram Community Hall including the defacto complainant's brother Muthuprabhahar and at that time there arose some wordy quarrel between the said Murali and his friends and consequent to the same, when the defacto complainant was at his uncle's home, the petitioner along with other accused went there and attacked the defacto complainant's brother and that when the same was questioned by the defacto complaint, all the accused abused the defacto complainant and attacked with wooden log and caused injuries. Hence, the complaint.

3. On the basis of the complaint given by the second respondent, FIR came to be registered in Crime No.276 of 2020 against the eight persons including the petitioner, for the alleged offence under Sections 147, 447, 294(b), 323, 324 and 506(ii) IPC.



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4. The main contention of the petitioner is that though the FIR came to be registered on 27.05.2020, they have not filed final report so far and that there are no materials so as to attract the offence under Section 506(ii) IPC and the case is barred under Section 468 of Cr.P.C.

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 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 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;



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(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.”

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



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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, 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. Moreover, as per the judgment of the Constitution Bench of the Hon'ble Supreme Court in ***Sarah Mathew vs. Institute of Cardio Vascular Diseases by its Director Dr.K.M.Cherian and others*** reported in ***(2014) 2 SCC 62***, limitation has to be computed from the date of offence till the date of complaint and not the date on which the Magistrate takes cognizance.



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9. The learned Government Advocate (Criminal Side) appearing for the State would submit that investigation is almost completed and they are going to file charge sheet shortly.

10. It is pertinent to note that if the petition under Section 482 Cr.P.C., was filed at the stage of FIR, the allegations in the FIR/complaint only are required to be considered and whether a cognizable offence is disclosed or not is required to be considered.

11. In the case on hand, as rightly contended by the learned Government Advocate (Criminal Side), a cursory perusal of the FIR makes out a *prima facie* case against the accused and it is a matter for investigation and as such, the question of quashing the FIR at this stage does not arise at all. Hence, this Court concludes that this is not a fit case to invoke Section 482 Cr.P.C., for quashing the FIR at this stage and the same is liable to be dismissed.



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

The first respondent police is directed to file the charge sheet before the jurisdictional Court within a period of one month from the date of receipt of copy of this order. Consequently, connected Miscellaneous Petition is closed.

01.10.2024

InNCC : Yes / No
Index : Yes / No
Internet : Yes / No
das

To

- 1.The Inspector of Police,
V.K.Puram Police Station,
Vickramasingapuram, Tirunelveli District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Order made in
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Dated:01.10.2024