



Crl.O.P.(MD)No.19609 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 10.06.2024

CORAM:

THE HONOURABLE **MR.JUSTICE AA.NAKKIRAN**

Crl.O.P.(MD)No.19609 of 2021 and
Crl.M.P.(MD)Nos.10962 and 10967 of 2021

P. Kaliyamoorthy @ Gobi

... Petitioner

Vs.

1.The State
rep. by the Inspector of Police,
Nadukkaveri Police Station,
Thanjavur District.
(Crime No.544 of 2021)

2.P.Vijayalakshmi

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 Cr.P.C, to call for the records in connection with the impugned charge sheet in PRC.No.17 of 2021, on the file of the learned Judicial Magistrate Court, Thiruvaiyaru, Thanjavur District and quash the same in so far as the petitioner is concerned.

For Petitioner

: Mr.S.P. Naveenkumar

For R1

: Mr.R.M.Anbunithi,

Additional Public Prosecutor



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ORDER

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This criminal original petition has been filed to call for the records in connection with the impugned charge sheet in PRC.No.17 of 2021, on the file of the learned Judicial Magistrate Court, Thiruvaiyaru, Thanjavur District and quash the same in so far as the petitioner is concerned.

2.The case of the prosecution is that when the defacto complainant and other police party made a vehicle check up, the petitioner herein and other accused said to have made a criminal conspiracy possessing swords in order to commit an offence and the petitioner herein is hirelings. Hence, a case has been registered in Crime No.544 of 2021 for the offences punishable under Sections 399, 212, 120(b) IPC r/w. 25(1A) Arms Act. Thereafter, the case has been charge sheeted in PRC.No.17 of 2021 on the file of the learned Judicial Magistrate Court, Thiruvaiyaru, Thanjavur District. Challenging the same, the present petition has been filed.

3.The learned counsel appearing for the petitioner submitted that



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only based on the confession of co-accused viz., A1 that the petitioner herein has given place to stay in his house for the accused Nos.2 and 3, he is arrayed as 8th accused. Except the above said confession no other evidences or witnesses available against the petitioner and he prays for allowing this petition.

4.The learned Additional Public Prosecutor appearing for the first respondent submitted 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 have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5.Time and again, this Court as well as the Supreme Court has cautioned the courts about the necessary precautions to be taken while quashing the charge sheet at the initial stage. 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).***



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6. In the above circumstances and also considering the fact that there is a specific overt act attributed against the petitioner, 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 the petitioner to put forth his defence. The petitioner cannot be let by quashing the charge framed against him as that would completely undermine the alleged acts, which is the subject matter of criminal trial pending against him.

7. For the reasons aforesaid, this Court finds no ground or scope to quash PRC.No.17 of 2021, on the file of the learned Judicial Magistrate Court, Thiruvaiyaru, Thanjavur District. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, the connected Miscellaneous Petitions are closed.

8. At this juncture, the learned counsel appearing for the petitioner prayed to dispense with the personal appearance of the petitioner before the Trial Court.



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10.Considering the request made by the learned counsel appearing for the petitioner, the personal appearance of the petitioner is dispensed with before the trial Court with the following conditions:-

i)The personal appearance of the petitioner 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.

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Index: Yes/No
Internet: Yes/No
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To

- 1.The Judicial Magistrate Court, Thiruvaiyaru, Thanjavur District
- 2.The Inspector of Police,
Nadukkaveri Police Station,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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