



Crl.O.P.(MD)No.15790 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.15790 of 2024

and

Crl.M.P.(MD)No.9957 of 2024

Rajakumaran

... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by the Inspector of Police,
All Women Police Station,
Kulithalai.
(Crime No.6 of 2024)

2.Kanimozhi

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 B.N.S.S., to call for the records relating to the charge sheet in C.C.No.109 of 2024 on the file of the learned Judicial Magistrate No.II, Kulithalai and quash the same as against the petitioner.

For Petitioner : Mr.S.K.Mani

For R1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl. 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 charge sheet in C.C.No.109 of 2024 pending on the file of the Judicial Magistrate No.II, Kulithalai.

2. On the basis of the complaint given by the second respondent, FIR came to be registered in Crime No.6 of 2024 for the alleged offences under Sections 417, 509, 294(b) and 506(2) IPC against the petitioner and after completing the investigation, charge sheet came to be filed and the same was taken on file in C.C.No.109 of 2024 and is pending on the file of the Judicial Magistrate No.II, Kulithalai.

3. The case of the prosecution is that on 26.01.2021 at about 12.00 a.m., the petitioner/accused entered into the house of the second respondent/defacto complainant and had sexual intercourse with her on promise to marry her and that subsequently, the petitioner had a similar sexual relationship with the second respondent upon the same promise to marry her, but thereafter refused to marry her.



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4. The learned counsel appearing for the petitioner would submit that the medical evidence will prove that the prosecution case is false and frivolous.

5. The learned Government Advocate (Criminal Side) appearing for the first respondent would submit that trial has already been commenced and L.W.1 was examined as P.W.1.

6. The medical documents produced, can be tested only after examination of the Doctors, who had attended the victim. Except the above, the petitioner has not canvassed any other reason or ground to impugn 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



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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



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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;

(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;



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(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.”

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



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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.

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, this Court concludes that the petition is devoid of merits and the same is liable to be dismissed. However, since trial has already been commenced and the victim has already been examined, the learned trial Judge is directed to proceed the trial in C.C.No.109 of 2024 and complete the same within a period of five months from the date of receipt of a copy of this order.

12. With the above direction, this Criminal Original Petition stands



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disposed of. Consequently, connected Miscellaneous Petition is closed.

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

- 1.The Judicial Magistrate No.II,
Kulithalai.
- 2.The Inspector of Police,
All Women Police Station,
Kulithalai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

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Crl.M.P.(MD)No.9957 of 2024

Dated: 24.09.2024