



Crl.O.P.(MD)No.16058 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.16058 of 2024

T.Brinthatharan

... Petitioner/A36

Vs.

1.The State of Tamil Nadu rep.by
The Inspector of Police,
Perumalpuram Police Station,
Tirunelveli District.
Crime No.253 of 2024.

2.Valliammal,
Sub-Inspector of Police,
Perumalpuram Police Station,
Tirunelveli City,
Tirunelveli District.

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS,
to call for the records relating to the FIR in Crime No.253 of 2024 on the
file of the first respondent police and quash the same.

For Petitioner : Mr.S.Selvakrishnan

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



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ORDER

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The Criminal Original Petition has been filed, invoking Section 528 B.N.S.S., seeking orders, to call for the records relating to the FIR in Crime No.253 of 2024 on the file of the first respondent police and quash the same.

2. The petitioner is the 36th accused in Crime No.253 of 2024 on the file of the Perumalpuram Police Station, Tirunelveli.

3. On the basis of the complaint lodged by the second respondent, FIR came to be registered in Crime No.253 of 2024 against forty persons including the petitioner for the alleged offences under Sections 143, 291, 341 and 353 IPC.

4. The case of the prosecution is that on 27.05.2024 at about 11.30 am the defacto complainant along with other police parties were on duty in National Highways at Reddyarpatti for the funeral procession of Deepakraja; that the accused persons gathered along with the people from different organizations and people from the same community



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assembled illegally without any permission and marched from Tirunelveli Medical College Hospital mortuary to Madurai-Kanyakumari four ways road in more than 100 two wheelers and cars and they have caused great stag in traffic with their vehicles and shouted slogans against the vehicles plying on the national highway. Hence, the complaint.

5. The main contention of the petitioner is that the petitioner at the time of alleged occurrence was taking examination at Trichy. He would further submit that there was no unlawful assembly and it was only a funeral procession and that they have not taken any complaint from any private individual.

6. As rightly contended by the learned Government Advocate (Criminal Side), the points that are canvassed by the petitioner are matter for investigation and the same cannot be gone into in the present proceedings. Moreover, it is settled law that the plea of alibi is a matter for trial and that by itself is not a ground to quash the FIR.



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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 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



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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;

(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



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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.”

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,



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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.

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.



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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.

12. In the result, this Criminal Original Petition stands dismissed. The petitioner is directed to produce the evidence to show that he was taking examination at the time of occurrence before the first respondent and the first respondent is directed to consider the same during investigation and complete the investigation and file final report within a period of four months from the date of receipt of copy of this order.

26.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
das



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To

- 1.The Inspector of Police,
Perumalpuram Police Station,
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
Crl.O.P.(MD)No.16058 of 2024

Dated: 26.09.2024