



Crl.O.P.(MD)No.16317 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.09.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.16317 of 2024

and

Crl.MP.(MD)Nos.10270 & 10271 of 2024

1.R.Kumaresan
2.D.Sangar @ Gowrishankar
3.G.Kalaiyaran

... Petitioners

Vs.

1.The Inspector of Police,
Aravakurichi Police Station,
Karur District.
(Cr.No.138 of 2021)

2.V.Sri Santhiya

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records relating to the proceedings in Charge sheet in STC.No.109 of 2024 on the file of the District Munsif Cum Judicial Magistrate, Aravakurichi insofar as the petitioners herein and quash the same as illegal.

For Petitioners
For R1

: Mr.N.Ananda Kumar
: Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor.



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ORDER

This criminal original petition has been filed seeking orders to quash the charge sheet in STC.No.109 of 2024 on the file of the District Munsif Cum Judicial Magistrate, Aravakurichi insofar as the petitioners are concerned.

2.It is evident from the records that on the basis of the complaint given by the second respondent, FIR came to be registered as against the petitioners in Cr.No.138 of 2021 and after completion of investigation charge sheet came to be filed and the case was taken on file in STC.No. 109 of 2024 for the offence under Sections 341, 353 and 171(H) IPC, which is pending on the file of the District Munsif Cum Judicial Magistrate, Aravakurichi.

3.The case of the prosecution is that the second respondent, who is the Horticulture Officer, Avarakurichi, has lodged a complaint alleging that when she was on election duty, she checked a innova car bearing Reg.No.TN-47-P-2326 and found AIADMK, BJP flags in huge numbers,



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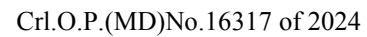
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worth about Rs.47,500/-, that when the complainant and others enquired the persons who came in the said car, the petitioners who came in another car bearing Reg.No.TN-28-AV-1010 argued with the complainant and taken all the flags and put it in their car and moved away.

4.The learned counsel appearing for the petitioners would submit that the petitioners are restricting their prayer with regard to the dispensing the personal appearance of the petitioners before the trial Court and are not pressing the main prayer of quashing the charge sheet.

5.The learned Additional Public Prosecutor appearing for the first respondent would submit that the case is posted on 12.12.2024 for appearance.

6.Considering the facts and circumstances of the case and the restricted prayer now sought for, the personal appearance of the petitioners before the trial Court is ordered to be dispensed with, on conditions that they shall appear at the time of initial questioning,



The petitioners are further directed to give an undertaking in the form of affidavit that they will be duly represented by a counsel on all hearing dates and that the counsel representing them will cross examine the prosecution witnesses on the same day they are examined in chief. The petitioners shall not dispute the identity of the witnesses. The petitioners shall appear before the Court in the event their presence is insisted by the trial judge for the purpose of identification. If the petitioners adopt any dilatorial tactics, it is open to the Trial Court to insist for their appearance and deal with the petitioners in accordance with the judgment of Supreme Court of India, *in State of Uttar Pradesh Vs. Shambunath Singh*, reported in *2001 (4) SCC 667*.

11. In the result, this criminal original petition is dismissed.
Consequently, connected miscellaneous petitions are closed.

30.09.2024

NCC : Yes / No
Index : Yes / No



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Internet : Yes / No
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To

- 1.The District Munsif Cum Judicial Magistrate,
Aravakurichi.
- 2.The Inspector of Police,
Aravakurichi Police Station,
Karur 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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