



Crl.O.P.(MD)No.16649 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.10.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.16649 of 2024

and

Crl.M.P.(MD)No.10452 of 2024

1.Jeya

2.Selvakumar

... Petitioners

Vs.

1.The State represented by
The Assistant Commissioner of Police,
Karimedu Police Station,
Madurai City.

2.The Inspector of Police,
Karimedu Police Station,
Madurai City.
(Crime No.65 of 2023)

3.Jebakumari

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 B.N.S.S.,
to call for the records in pursuant to Special S.C.No.28 of 2023 on the
file of the III Additional District Court (PCR Act Cases), Madurai and
quash the same.



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For Petitioners : Mr.M.Karthikeya Venkitachalapathy
For R1 & R2 : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed, invoking Section 528 B.N.S.S., seeking orders to quash the charge sheet in Special S.C.No.28 of 2023 pending on the file of the III Additional District Court (PCR Act Cases), Madurai.

2. On the basis of the complaint given by the third respondent, FIR came to be registered in Crime No.65 of 2023 on 18.01.2023 for the alleged offences under Section 294(b) IPC and Sections 3(l)(r) and 3(l)(s) of the SC/ST (Prevention of Atrocities) Act, 1989 and after completing the investigation, charge sheet came to be filed for the alleged offences under Sections 294(b) and 417 IPC and Sections 3(l)(r) and 3(l)(s) of the SC/ST (Prevention of Atrocities) Act, 1989 and the case was taken on cognizance in Spl.S.C.No.28 of 2023 and is pending on the file of the III Additional District Court (PCR Act Cases), Madurai.



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3. The case of the prosecution is that there existed some dispute between the parties with regard to payment of salary, for which, the petitioners scolded the third respondent in filthy language by mentioning her caste name and that thereafter on 11.12.2022, the first petitioner called the third respondent through phone and abused her by mentioning her caste name,

4. The main contention of the petitioners is that the first petitioner has allegedly abused the third respondent through cell phone and as such, the offences under Sections 3(l)(r) and 3(l)(s) of the SC/ST (Prevention of Atrocities) Act did not attract.

5. The learned Government Advocate (Criminal Side) appearing for the respondents 1 and 2 would submit that in the complaint as well as in the statement recorded under Section 161(3) Cr.P.C., the third respondent has alleged not only she was abused through cell phone but also through the phone which is kept in the office on loud speaker and that they have already filed the CDR report.



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6. As rightly contended by the learned Government Advocate (Criminal Side), the above points / aspects now canvassed by the petitioners are matter for trial and the same cannot be gone into, in the present quash proceedings. Except the above, the petitioners have not canvassed any other reason or ground to quash 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 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



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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



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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;

(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



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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 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



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along with the final report would make it clear that there existed a *prima facie* case to proceed against the petitioners.

11. Considering the above and also the submission made by the learned Government Advocate (Criminal Side) and also taking note of the fact that this is not a fit case to quash the charge sheet against the petitioners, this Court is not inclined to grant the relief claimed.

12. In the result, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed.

14.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
csm

To

- 1.The III Additional District Court (PCR Act Cases),
Madurai.
- 2.The Assistant Commissioner of Police,
Karimedu Police Station,
Madurai City.



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3.The Inspector of Police,
Karimedu Police Station,
Madurai City.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Order made in
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