



Crl.O.P.(MD)No.16524 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.10.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.16524 of 2024

and

Crl.M.P.(MD)Nos.10365 and 10366 of 2024

K.Lawrence

... Petitioner

Vs.

1.State rep. by
The Inspector of Police,
Nazareth Police Station,
Thoothukudi District.
(Crime No.216 of 2021)

2.Arul Raj

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 B.N.S.S., to call for records pertaining to the charge sheet in S.T.C.No.2 of 2023 on the file of the Judicial Magistrate, Sathankulam and quash the same as illegal.

For Petitioner : Mr.T.Lenin Kumar

For R1 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



Crl.O.P.(MD)No.16524 of 2024

ORDER

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The Criminal Original Petition has been filed, invoking Section 528 B.N.S.S., seeking orders to quash the charge sheet in S.T.C.No.2 of 2023 pending on the file of the Judicial Magistrate, Sathankulam.

2. It is evident from the records that on the basis of the complaint lodged by the second respondent, FIR came to be registered in Crime No. 216 of 2021 on 29.10.2021 for the alleged offences under Sections 294(b) and 506(1) IPC against two persons including the petitioner and after completing the investigation, charge sheet came to be filed and the case was taken on file in S.T.C.No.2 of 2023 and is pending on the file of the Judicial Magistrate, Sathankulam.

3. The case of the prosecution is that on 01.10.2021 at about 08.30 a.m., the petitioner along with other accused went to the second respondent's house and abused him in filthy language and also threatened him with dire consequences.

4. The learned counsel appearing for the petitioner would mainly contend that the petitioner was not available in the occurrence place and



Crl.O.P.(MD)No.16524 of 2024

he was working in the school at that time and that they have produced the attendance register. He would further submit that though the occurrence was happened on 01.10.2021, FIR came to be registered on 29.10.2021 and there is absolutely no explanation for the delay.

5. Even assuming that there is delay in preferring the complaint, that by itself is not a ground to quash the charge sheet. With regard to alibi, it is settled law that alibi cannot be gone into, in the quash proceedings and it is matter for trial. Except the above, the petitioner has not canvassed any other reason or ground to quash the charge sheet.

6. 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



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Crl.O.P.(MD)No.16524 of 2024

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 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



Crl.O.P.(MD)No.16524 of 2024

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;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior



Crl.O.P.(MD)No.16524 of 2024

motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

7. 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.

8. 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,



Crl.O.P.(MD)No.16524 of 2024

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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.

9.. 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.

10. Considering the above and also taking note of the fact that this is not a fit case to quash the charge sheet against the petitioner, this Court is not inclined to grant the relief claimed.

11. In the result, this Criminal Original Petition stands dismissed. The learned Judicial Magistrate, Sathankulam is directed to complete the trial in S.T.C.No.2 of 2023 and dispose of the same as expeditiously as possible. Consequently, connected Miscellaneous Petitions are closed.

03.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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Crl.O.P.(MD)No.16524 of 2024

K.MURALI SHANKAR,J.

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To

- 1.The Judicial Magistrate,
Sathankulam.
- 2.The Inspector of Police,
Nazareth Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Crl.O.P.(MD)No.16524 of 2024
and
Crl.M.P.(MD)Nos.10365 and 10366 of 2024

Dated: 03.10.2024