



Crl.O.P.(MD).No.10347 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 08.03.2024

CORAM:

THE HONOURABLE Mr. JUSTICE C.KUMARAPPAN

Crl.O.P.(MD).No.10347 of 2017

and

Crl.M.P.(MD).Nos.7070 and 7071 of 2017

Ramasamy

... Petitioner/Accused No.3

Vs.

1.The Inspector of Police,
Siruganoor Police Station,
Siruganoor,
Trichy District.
(Crime No.222 of 2003)

...1st Respondent / Complainant

2.Kuppusamy

...2nd Respondent/de-facto Complainant

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the proceedings in C.C.No.140 of 2004 on the file of the District Munsif Cum Judicial Magistrate, Lalgudi, Trichy District as against the Petitioner.

For Petitioner : Mr.N.Ananda Kumar

For R-1 : Mr.E.Antony Sahaya Prabhakar
Additional Public Prosecutor



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ORDER

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Pursuant to the order passed in Crl.M.P.(MD).No.5 of 2024, the learned counsels on both sides submitted their contentions.

2. According to the case of the prosecution, the second respondent herein lodged a complaint before the Inspector of Police, Siruganoor Police Station, in respect of the accident which had taken place on 18.04.2003 at about 6.15 a.m. In pursuance of the complaint, an FIR was registered in Crime No.224 of 2003 for the alleged offences under Sections 279, 337, 338 and 304A of IPC on 18.04.2003 itself.

3. It is the submission of the learned counsel for the petitioner that under Section 66(i) read with Section 192A of the Motor Vehicles Act, only the owners are liable for not obtaining the relevant permission from the Transport Department, whereas the petitioner was only a Manager and that when he visited the Police Station, in order to assist the prosecution, the first respondent has wrongly implicated him in the case, and that he has been regularly pursuing the proceedings before the Trial Court, since 2004. It is the further submission of the learned counsel for the petitioner that the very continuation of the prosecution in C.C.No.140 of 2004 is an abuse of process of law, as there is no



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specific overt act referred to in the charge sheet. Hence, the learned counsel for the petitioner prayed to quash the proceedings in C.C.No.140 of 2004.

4. The contention of the learned counsel for the petitioner was seriously objected by the learned Additional Public Prosecutor. The learned Additional Public Prosecutor would invite the attention of this Court to the statement of one Mahesh, L.W.15, wherein, he has referred about the overt act of the present petitioner. Hence, he would submit that under inherent jurisdiction, the merits of the said statement cannot be tested. Hence, he prayed to dismiss the quash petition.

5. I have given my anxious consideration to the submissions on either side.

6. It is the settled principle of law that while exercising jurisdiction under Section 482 Cr.P.C, this Court cannot conduct any roving enquiry or cannot go into factual aspects and merits of the matter. In this regard, it is useful to refer the judgment of the Hon'ble Supreme Court passed in the case of ***Devendra Prasad Singh Vs. State of Bihar & Anr reported in 2019 4 SCC 351*** and the relevant portion is extracted hereunder:



" 12. So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law."

The Hon'ble Supreme Court of India dealing in respect of the very same issue in the case of **Central Bureau of Investigation Vs. Arvind Khanna** reported in **2019 10 SCC 686**, wherein, it has been held as follows:

"19. After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the



evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for.”

It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in the case of ***M.Jayanthi Vs. K.R.Meenakshi & anr***, reported in ***2019 SCC Online SC 2058*** and the relevant portion of the order is extracted hereunder:

"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if



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accepted in entirety, would not constitute the offence alleged.

.....

13. A look at the complaint filed by the appellant would show that the appellant had incorporated the ingredients necessary for prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....."

7. On perusal of the material, there is a specific overt act spoken by the witness Mahesh, L.W.15, in the charge sheet. When there is *prima facie* material through the statement of the witness, in view of the above ratio of the Hon'ble Apex Court, this Court cannot go into the factual aspects at the very threshold that too under Section 482 Cr.P.C. Therefore, there is no merit in the Criminal Original Petition and hence, the same is dismissed.

8. At this juncture, the learned counsel for the petitioner would submit that the present petitioner has been pursuing the case before the concerned Magistrate Court, since 2004 and has been regularly appearing before the Court. Hence, he seeks for a direction for early disposal and also an order to dispense his presence before the Trial Court.



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9. In view of the submissions of the learned counsel for the petitioner, this Court feels that there is a justification in the submissions made by the learned counsel for the petitioner. Hence, this Court directs the Trial Court to dispose of the case in C.C.No.140 of 2004 as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of the order. Further more, Crl.M.P.(MD).No.7071 of 2017 is ordered and the presence of the petitioner (Ramasamy) is dispensed with before the Trial Court except when he is specifically directed by the concerned Court for his appearance and for receiving the copies, questioning under Section 313 Cr.P.C and at the time of judgment. Consequently, connected Crl.M.P.(MD).No.7070 of 2017 is closed.

08.03.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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To

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- 1.The Inspector of Police,
Siruganoor Police Station,
Siruganoor,
Trichy District.

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



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C.KUMARAPPAN, J.

Nsr

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