



Crl.O.P.(MD)No.17858 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.17858 of 2024

and

Crl.M.P.(MD)Nos.11027 and 11028 of 2024

1.M.Saravanan

2.R.Rajamani

... Petitioners

Vs.

1.State of Tamilnadu through
The Inspector of Police,
Thallakulam Police Station,
Madurai District.
(Crime No.2654 of 2009)

2.G.Rajendran
Sub-Inspector of Police,
D1 Thallakulam Police Station,
Madurai.

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 B.N.S.S., to call for the records pertaining to the impugned charge sheet in P.R.C.No.68 of 2013 on the file of Judicial Magistrate Court No.II, Madurai and quash the same as against this petitioners alone.



WEB COPY



Crl.O.P.(MD)No.17858 of 2024

For Petitioners : Mr.S.Ramsundarvijayraj
For R1 : 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 P.R.C.No.68 of 2013 pending on the file of the Judicial Magistrate No.II, Madurai.

2. It is seen from the records that on the basis of the complaint given by the second respondent/Sub Inspector of Police, FIR came to be registered in Crime No.2654 of 2009 on 05.11.2009 and after completing the investigation, charge sheet came to be filed for the alleged offences under Sections 147, 148, 341, 355, 353, 188 and 332 IPC and Section 3(1) of TNPPDL Act r/w 109 IPC and the same was taken on file in P.R.C.No.68 of 2013 and is pending on the file of the Judicial Magistrate No.II, Madurai.

3. The case of the prosecution is that on 05.11.2009 at about 06.45 p.m., when 144 system was established in the city, the students



Crl.O.P.(MD)No.17858 of 2024

from Madurai Law College have made a protest without permission and created nuisance and disturbances to the public and caused damages to the Government properties.

4. When a specific query was raised to the learned Government Advocate (Criminal Side) as to why the case is pending from 2013 without committal, the learned Government Advocate (Criminal Side) would submit that Non-Bailable Warrant is pending against fourth accused.

5. The learned counsel appearing for the petitioners would submit that even according to the prosecution, nearly 500 students have taken part in the protest but they have only added 23 students as accused.

6. The learned Government Advocate (Criminal Side) would submit that there are specific allegations levelled against the petitioners and that they have caused damages to the Government Bus.

7. The Hon'ble Supreme Court in the case of ***State of Haryana***



Crl.O.P.(MD)No.17858 of 2024

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 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;



WEB COPY



Crl.O.P.(MD)No.17858 of 2024

(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 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



Crl.O.P.(MD)No.17858 of 2024

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, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the Section itself.



Crl.O.P.(MD)No.17858 of 2024

WEB COPY

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 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 facts and also taking note of the submission of the learned Government Advocate (Criminal Side), this Court is not inclined to quash the charge sheet at this point of time.



Crl.O.P.(MD)No.17858 of 2024

WEB COPY

12. Since the case in P.R.C.No.68 of 2013 is pending from 2013, the first respondent is directed to take necessary steps to split up the case as against fourth accused and after splitting up the case, the learned Judicial Magistrate No.II, Madurai is directed to proceed further and commit the case within a period of one month from the date of splitting up the case.

13. With the above directions, this Criminal Original Petition stands disposed of. Consequently, connected Miscellaneous Petitions are closed.

22.10.2024

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

To

1.The Judicial Magistrate No.II,
Madurai.

2.The Inspector of Police,
Thallakulam Police Station,
Madurai District.

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



WEB COPY



Crl.O.P.(MD)No.17858 of 2024



WEB COPY



Crl.O.P.(MD)No.17858 of 2024

K.MURALI SHANKAR,J.

csn

Order made in
Crl.O.P.(MD)No.17858 of 2024
and
Crl.M.P.(MD)Nos.11027 and 11028 of 2024

Dated: 22.10.2024