



Crl.O.P.(MD)No.18214 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.18214 of 2024

and

Crl.M.P(MD)Nos.11291 and 11292 of 2024

1.Nagappan @ Kannan

2.Ganesan

3.Gopalakrishnan

: Petitioners/A1 to A3

Vs.

1.The State rep.by the Inspector of Police,
Chettinadu Police Station,
Sivagangai District.
Crime No.27 of 2023.

2.Seenivasan

: Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS.,
to call for the records relating to the charge sheet in S.T.C.No.83 of 2024
on the file of the learned Judicial Magistrate, Karaikudi and quash the
same as against the petitioners.

For Petitioners : Mr.V.Kannan,



WEB COPY



Crl.O.P.(MD)No.18214 of 2024

For Respondents : Mr.K.Sanjai Gandhi,
Government Advocate (Crl. Side)
for R1.

: Mr.C.Muthu Saravanan, for R2.

ORDER

The Criminal Original Petition has been filed, invoking Section 528 of BNSS., seeking orders, to call for the records pertaining to the charge sheet in S.T.C.No.83 of 2024 on the file of the learned Judicial Magistrate, Karaikudi and quash the same as illegal.

2. It is evident from the records that on the basis of the complaint given by the second respondent, FIR came to be registered in Crime No.27 of 2023 for the offences under Sections 448 and 506(i) of IPC and after completing the investigation, the first respondent has laid the final report and the same was taken on file in S.T.C.No.83 of 2024 on the file of the learned Judicial Magistrate, Karaikudi.

3. The case of the prosecution is that on 25.02.2023, when the defacto complainant was in his rented house belonging to the Dr.Kumara



Crl.O.P.(MD)No.18214 of 2024

Rani Meena, the petitioners had trespassed into the house property and threatened the defacto complainant to vacate the house.

4. The main contention of the petitioners is that the petitioners had visited the house of the defacto complainant only to claim rent and that the occurrence alleged by the prosecution is false and that they have attempted to convert the civil dispute into a criminal case.

5. As rightly contended by the learned Government Advocate (Criminal Side), in the complaint as well as in the statement under Section 161(3) Cr.P.C., the second respondent has specifically alleged that there was no rent arrears and that the petitioners trespassed into the house of the defacto complainant and threatened him to vacate the house.

6. Even assuming for argument sake that there are rent arrears, they have to approach the civil Court for recovery of the same, instead they have sent three persons. Except the above, the petitioners have not canvassed any other reasons or ground to quash the charge sheet.



Crl.O.P.(MD)No.18214 of 2024

WEB COPY

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 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.



Crl.O.P.(MD)No.18214 of 2024

(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 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



Crl.O.P.(MD)No.18214 of 2024

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 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



Crl.O.P.(MD)No.18214 of 2024

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



Crl.O.P.(MD)No.18214 of 2024

WEB COPY

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. Hence, this Court concludes that the Criminal Original Petition is devoid of merits and the same is liable to be dismissed.

12. In the result, the Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

25.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
das

To

- 1.The Judicial Magistrate, Karaikudi
- 2.The Inspector of Police,
Chettinadu Police Station,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.18214 of 2024

K.MURALI SHANKAR,J.

das

Order made in
Crl.O.P.(MD)No.18214 of 2024
and
Crl.M.P(MD)Nos.11291 and 11292 of 2024

Dated: 25.10.2024