



CRL OP(MD). No.21546 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 05.03.2024

CORAM

The Hon`ble Mr.Justice M. DHANDAPANI

**CRL OP(MD) No.21546 of 2022 and
Crl.M.P.(MD) No.15177 of 2022**

1.Mohandas Karamchand Gandhi

2.Subbulakshmi

... Petitioners

Vs

1.State thro

The Sub Inspector of Police,
Kalayarkoil Police Station,
Sivagangai District
Crime No.625/2021

2.Nagalingam

... Respondents

PRAYER :- Criminal Original Petition filed under section 482 of Cr.P.C., to call for the records impugned chargesheet in CC No.97 of 2022 on the file of the learned Additional Mahila Court, Sivagangai and quash the same as against the petitioners.

For Petitioners	: M/s.S.Srikanth for M/s.APN Law Associates
For Respondent	: M/s.M.Ramu for 2 Mr.P.Kottaichamy for R1 Government Advocate (Criminal side)



CRL OP(MD). No.21546 of 2022

WEB COPY

ORDER

This petition has been filed to quash the proceedings in CC No.97 of 2022 on the file of the learned Additional Mahila Court, Sivagangai.

2.It is the case of the prosecution that on the complaint made by the 2nd respondent, a case has been registered against one Somasundaram was registered in Crime No.625/2021 on 29.12.2021 for offences under Sections 294(b), 324, 506(II) and 109 IPC and Section 4 of TNPHW Act against four persons and the counter complaint preferred by the said Somasundaram was registered in Crime No.626/2021 on the same day, for offences under Sections 147, 448, 324, 506(I) IPC and Section 4 of TNPHW Act against eight persons. The petitioners have arrayed as A3 and A4 in Crime No.625/2021 and on completion of investigation, chargesheet has been filed, for quashing which, the petitioners are before this Court.

3. The crux of the complaint is that in the premises of the 2nd respondent, Somasundaram is residing as a tenant, which was directed to be handed over to the 2nd respondent. Therefore, the 2nd respondent went

2/7



CRL OP(MD). No.21546 of 2022

and asked Somasundaram as to when the premises will be handed over.

It is alleged while such demand was made, the 2nd respondent was accompanied with five persons, whom are his relatives. While so, in the melee, it is alleged that Somasundaram attacked all the persons, in which, the 2nd respondent and Sivasakthi, who is the sister's daughter of the 2nd respondent, have sustained injuries. Hence, the complaint. However, a counter complaint has been given by Somasundaram, which was also registered as stated supra.

4. The learned counsel for the petitioners would submit that the petitioners have no way connected with the said occurrence and they have been falsely implicated in this case. He would submit that there is no averments in the complaint with regard to the overt-act attributed against the petitioners. It is also contended that the petitioners are neither involved in the scuffle nor they were present in the scene of occurrence; neither the 2nd respondent nor the seven others belong to the residents of the said locality. The said occurrence was informed by A1 and others to the petitioners herein, except that the petitioners were no way connected. Therefore, he would submit that the de-facto complainant party are the



aggressors and prays for interference.

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5. The learned Government Advocate (crl.side) appearing for the first respondent would submit that there are materials available against the petitioners and at the threshold the chargesheet cannot be quashed and since the offences are triable in nature, he prays for dismissal.

6. On the other hand, the learned counsel for the 2nd respondent would submit that the petitioners party were the aggressors and since Somasundaram did not vacate and hand over the possession, a quarrel ensued, when the 2nd respondent and his relatives went and asked him to vacate and hand over possession. In view of the uncontraverted allegations made against the petitioners, which is to be proved at the time of trial, he seeks for dismissal.

7. This Court heard the submissions made by either side and perused the materials available on record.



CRL OP(MD). No.21546 of 2022

8. At the outset, it is to be noted that neither the petitioners were present in the scene of occurrence nor they have participated in the said melee. When they were not present in the scene of occurrence, without any materials whatsoever including them in the complaint itself was given in order to harass the petitioners. When there are allegations against the first and second accused and there is no overtact as against the petitioners herein, the chargesheet filed including the petitioners is per se illegal. It is also not the case of the 2nd respondent that the petitioners have participated in the alleged occurrence and based on the oral evidence of the de-facto complainant, the petitioners herein were implicated and included in the complaint without any materials.

9. When the petitioners were not at all present in the scene of occurrence, the offences under Sections 294(b), 324, 506(II) and 109 IPC and Section 4 of TNPHW Act were not at all possible. For all these reasons, the chargesheet is liable to be quashed.

10. Accordingly, the criminal original petition is allowed and the chargesheet filed in C.C.No. 97 of 2022 on the file of the learned



CRL OP(MD). No.21546 of 2022

Additional Mahila Court, Sivagangai against the petitioners alone is hereby quashed. Consequently connected Miscellaneous Petition is closed.

05.03.2024

NCC : Yes/No
Index : Yes/No

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TO

1.The Judicial Magistrate,
Karaikudi, Sivagangai District

2.The Sub Inspector of Police,
Kalayarkoil Police Station,
Sivagangai District



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CRL OP(MD). No.21546 of 2022

M.DHANDAPANI. J

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