



Crl.O.P(MD) No.20027 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE **M. NIRMAL KUMAR**

Crl.O.P.(MD) No.20027 of 2024

and

Crl.M.P(MD) No.12359 of 2024

1. V.R.Veludass

2.C.Ganesan

...Petitioners

Vs.

1. The Inspector of Police
Abiramam Police Station
Ramanathapuram District

2.Udhayakumar

...Respondents

PRAYER: Criminal Original Petition filed under Section 528 of BNSS to call for the records in C.C. No.210 of 2024 dated 05.08.2023 on the file of the first respondent and quash the same.

For Petitioners : Mr.P.Deepak

For Respondents : Mr.K. Sanjai Gandhi
No.1 Government Advocate(Crl.Side)



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ORDER

This petition has been filed to quash the proceedings in C.C. No.210 of 2024 on the file of the learned District Munsif cum Judicial Magistrate, Kamuthi, Ramanthapuram District.

2. The petitioners/accused facing charges for the offences under Sections 294(b), 323, 353 and 506(i) of IPC in C.C. No.210 of 2024 has filed this petition stating that earlier there was dispute in respect of management of temple between the petitioners and one Thangaraj . The said Thangaraj had earlier approached this Court in WP(MD) No.7578 of 2023 challenging the order of appointment of Special Officer by the management of Kudamuruti Ayyappan Temple situated at Muthathipuram Village, Kamuthi Taluk, Ramanathapuram District. This Court by an order dated 18.04.2023 disposed of the writ petition confirming the appointment of Special Officer in the management of temple from the HR & CE Department. Further it is also recorded that civil suit in O.S. No.56 of 2022 is pending between the rival parties of the temple before the Sub Court, Paramakudi. The police were also directed to give necessary protection to non hereditary Trustees to discharge his duties. Aggrieved against the same appeal has been filed by one



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V.R.Boopalan another party to the dispute in W.A(MD) No. 881 of 2023 in

CMP(MD) No. 7051 of 2023 on the file of this Court and this Court by an order dated 20.06.2023 finding that the pooja has to be conducted on 28.06.2023 has granted stay of the appointment of Special Officer. Thereafter suppressing the same, again Thangaraj had filed WP(MD) No. 15530 of 2023 on 27.06.2023 and obtained an order stating that he had sent a representation on 24.06.2023 not to consider. Further the temple has been locked and the guru pooja was stated to be held on 25.06.2023. Using this order the officials of the HR &CE Department had entered into temple performed the pooja which was questioned by the petitioners against which they were assaulted.

3. The learned Additional Public Prosecutor would submit on the complaint of the Inspector of HE &CE Department a case has been registered against the petitioners and now investigation has been completed and charge sheet has been filed listed out 10 witnesses and material objects and the charge sheet has been filed on 05.08.2023 and the same has been taken on file in C.C.No.2 10 of 2024 and the case is posted for trial.

4. The petitioners contention is that the writ petition referred by the writ petitioners are still to attain finality and the petitioners contention can be tested



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only during trial and all these factual disputes cannot be decided in the quash application.

5. In view of the same, this court finds that the points raised by the learned counsel appearing for the petitioners are factual in nature which has to be necessarily decided by the trial Court during trial.

6. In view of the same the Criminal Original Petition stands dismissed. Consequently connected miscellaneous petition stands closed.

7. At this juncture, the learned counsel appearing for the petitioners prayed that the personal appearance of the petitioners before the trial Court, may be dispensed with.

8. Accepting the said submission, the presence of the petitioners before the trial Court shall be dispensed with on condition that they shall be present on the first day of appearance, on the date fixed for receiving the copies, initial questioning, reply to charges and questioning under Section 313 of Cr.P.C., and at the time of passing judgment and whenever insisted upon by the trial court.



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9.The petitioners are further directed to give an undertaking in the form of affidavit that they will be duly represented by a counsel on all hearing dates and that the Counsel representing them will cross examine the prosecution witnesses on the same day they are examined in chief. The petitioners shall not dispute the identity of the witnesses. The petitioners shall appear before the Court in the event his presence is insisted by the trial judge for the purpose of identification. If the petitioners adopt any dilatorial tactics, it is open to the Trial Court to insist for his appearance and deal with the petitioners in accordance with the judgment of Supreme Court of India, in State of Uttar Pradesh Vs. Shambunath Singh, reported in 2001 (4) SCC 667.

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Internet:Yes
Index:Yes/No
Speaking/Non speaking order
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To

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1. The District Munsif cum Judicial Magistrate,
Kamuthi, Ramanthapuram District
2. The Inspector of Police
Abiramam Police Station
Ramanathapuram District
3. The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai



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M. NIRMAL KUMAR.J.,

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