



Crl.O.P.(MD)No.20685 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.20685 of 2024

1. Mohamed Ismail

2. Mouthan

... Petitioners

Vs

1. The State of Tamil Nadu,
Rep By, The Inspector of Police,
Nagamalai Pudukottai Police Station,
Madurai. Cr.No.373 of 2022..

2. Sakthivel

3. Devi

...Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records pertaining to C.C.No.989 of 2023 on the file of the Learned Judicial Magistrate Court No.VI, Madurai and Quash the same.

For Petitioners : Mr.J.Mohamed Ibrahim,

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

Mr. Yasar Arafath (R2,R3)



WEB COPY



Crl.O.P.(MD)No.20685 of 2024

ORDER

This Criminal Original Petition has been filed, invoking Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, seeking orders to call for the records in C.C.No.989 of 2023, on the file of the learned Judicial Magistrate No.VI, Madurai and quash the same as illegal, improper and abuse of process of law.

2.Heard the learned counsel for the petitioners, the learned Government Advocate (Criminal Side) appearing for the first respondent and the learned counsel appearing for the respondents 2 and 3.

3.The learned counsel for the petitioners submitted that a false case has been foisted against the petitioners and the defacto complainant has not identified the petitioners in his deposition.

4.The contentions put forward by the learned counsel



Crl.O.P.(MD)No.20685 of 2024

appearing on behalf of the petitioners are purely factual in nature and this Court cannot venture into conducting a mini trial into the matter and it therefore does not fall within the ambit of its jurisdiction under Section 482 of Cr.P.C. Though the second respondent has given an affidavit to compound the offence, this Court is not in a position to entertain the same, considering the nature of offence.

5.This Court must also bear in mind the parameters laid down by the Apex Court in *Neeharika Infrastructure Pvt.Ltd.*, case reported in **2021 SCC Online SC 315**. Any finding on facts will also have a bearing on the trial conducted by the respondent Police at the trial Court.

6. In the facts and circumstances of the case, this Court is not inclined to interfere with the investigation conducted by the respondent Police at this stage.

7. In the result, this Criminal Original Petition is dismissed



Crl.O.P.(MD)No.20685 of 2024

WEB COPY

and the respondent Police is directed to proceed further with the investigation in accordance with law and complete the Trial and dispose the case on its own merits without further delay.

20.12.2024

NCC : Yes / No

Index : Yes / No

PNM

To

1.The Judicial Magistrate No.VI, Madurai

2.The Inspector of Police,
Nagamalai Pudukottai Police Station,
Madurai. Cr.No.373 of 2022.

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



WEB COPY



Crl.O.P.(MD)No.20685 of 2024

M.NIRMAL KUMAR, J.

PNM

Order in
Crl.O.P.(MD)No.20685 of 2024

20.12.2024