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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2025

CORAM

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

Crl.O.P(MD)No.18790 of 2022

and

Crl.M.P(MD)Nos.12642 and 12643 of 2022

Nijam Muhaideen

... Petitioner

Vs

1. The Inspector of Police,
Sethubavachathiram Police Station,
Thanjavur Crime No. 30 of 2011.

2. Panner @ Kalimuthu

... Respondents

PRAYER: Criminal Original petitions have been filed under Sections 439 (1) (b) of the Code of Criminal Procedure, to call for the records of the impugned charge sheet in S.C No. 179 of 2019 on the file of the learned Subordinate court, Pattukottai and quash the same as illegal and quash the same as illegal.

For Petitioner : Mr.Jinnah S.M.A.,

For R1 : Mr.A.Albert james
Government Advocate (Crl.Side)

For R2 : No appearance



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ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in S.C No. 179 of 2019 on the file of the learned Subordinate court, Pattukottai.

2.The case of the prosecution is that on 09.02.2011, at about 09.00 a.m, the flag belonging to Baratiya Janata Party was hoisted and subsequently it was removed by the persons belonging to the same locality. When this came to light, an enquiry was conducted by the respondent police. In view of this, there is a previous enmity and on 12.02.2011 at about 04.30 p.m, the accused persons are said to have restrained the defacto complainant and others and attacked them with stones and abused them in filthy language and also attempted to murder. Based on the complaint given by the second respondent, the FIR came to be registered. On completion of the investigation, the police report was filed for the offences under Sections 147, 148, 294(b), 323, 324 and 307 of IPC as against 15 accused persons. The same was taken cognizance and process was issued. A14 has challenged the proceedings before this Court.



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3. Heard the learned Counsel appearing on either side.

4. It is not necessary for this Court to go into the various grounds that were raised on the side of the petitioner. It will suffice to interfere with the cognizance order passed by the Court below. Since the Court below has taken rubber stamp cognizance. For proper appreciation, the cognizance taken by the Court below is scanned and extracted hereunder:

சென்னை மாவட்ட நீதிமன்றம் சென்னை மாவட்ட நீதிமன்றம், சென்னை சென்னை மாவட்ட நீதிமன்றம், சென்னை சென்னை மாவட்ட நீதிமன்றம், சென்னை	சென்னை மாவட்ட நீதிமன்றம் சென்னை மாவட்ட நீதிமன்றம்	சென்னை மாவட்ட நீதிமன்றம் சென்னை மாவட்ட நீதிமன்றம் சென்னை மாவட்ட நீதிமன்றம் சென்னை மாவட்ட நீதிமன்றம்
File Form-35	Separat sheet here with enclosed	Charged V/B 147, 148, 294 & 329, by 307 P.R.
PRC: 18/19 J.O. No. 147, 148, 294 & 329 Issue Summons / N.B.W to the Accused Prepare Copies Case Filed to 2-2-4-19 Judicial Magistrate Pattukottam 2-2-4-19	29 1307 PRC	Inspector of Police Sathyaavachathiram PS Thanjavur Dist.
20	20	20

EXAMINED

5. This Court by relying upon the judgment of the Apex Court has



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repeatedly held that the process of taking cognizance is a judicial process which requires application of mind. A rubber stamp cognizance is no cognizance in the eye of law since what is being done is to put the seal in the complaint and fill-up the gaps. Such rubber stamp cognizance has been frowned upon by this Court. Useful reference can be made to the judgment of this Court in *Shanmugam and others v. Inspector of Police, Ariyalur Police Station, Ariyalur and others*, reported in (2019) 3 MLJ (Crl.) 339. The Apex Court also dealt with this issue in *S.K.Sinha, Chief Enforcement Officer v. Videocon International Ltd & Ors.*, reported in (2008) 1 SCC (Crl.) 471.

6. In view of the above, the rubber stamp cognizance taken by the Court below is hereby set aside. The matter is remitted back to the file of the Subordinate Court, Pattukotai and the learned Sub Judge shall apply his mind on the allegations made in the complaint and the materials relied upon and pass appropriate orders which must reflect the application of mind. This process shall be complied within a period of four weeks from the date of receipt of a copy of this order.



7.In the result, this Criminal Original Petition is allowed in the

above terms. Consequently, connected miscellaneous petitions are closed.

24.01.2025

Internet :Yes
Index :Yes/No
NCC :Yes/No
LR

To

1. The Subordinate court, Pattukottai.
- 2.The Inspector of Police,
Sethubavachathiram Police Station,
Thanjavur.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH, J.

LR

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