

Hemamalini vs The Inspector Of Police on 14 August, 2024

Crl.O.P.(MD)No.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2024

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THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.13303 of 2024

and

Crl.M.P.(MD)Nos.8213 & 8216 of 2024

1.Hemamalini

2.Rajathi

... P

Vs.

1.The Inspector of Police,
Kenikkarai Police Station,
Ramanathapuram District.
(In Crime No.402 of 2022)

2.Vijay

... Res

PRAYER : Criminal Original Petition filed under Section 528 of BNSS to call for the records connected with the case in C.C.No.241 of 20 the file of the learned Judicial Magistrate No.II, Ramanathapuram a quash the same as illegal as against the petitioners.

For Petitioners : Mr.R.Alagumani

For R1 : Mr.K.Sanjai Gandhi,
Government Advocate (Crl. Sid

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Crl.O.P.(

ORDER

This Criminal Original Petition has been filed seeking orders to quash the charge sheet in C.C.No.241 of 2024 on the file of the learned Judicial Magistrate No.II, Ramanathapuram.

2.It is seen from the records that on the basis of complaint lodged by the second respondent, FIR was registered in Cr.No.402 of 2022 for the offence under Sections 147, 148, 341, 294(b), 323, 324,

506(2) and 379 IPC, that after completion of investigation, charge sheet came to be filed as against the seven accused including the petitioners for the offence under Sections 147, 148, 341, 294(b), 323, 506(2), 427 and 326 IPC and that the case was taken on file in C.C.No.241 of 2024 by the learned Judicial Magistrate No.II, Ramanathapuram. It is also not in dispute that a counter case is also pending. The case in counter came to be registered based on the complaint lodged by A3 in this case.

3.The case of the prosecution is that on 28.05.2022, at about 10.00 pm., when the defacto complainant and one Kooripandi travelled in a car bearing Registration No.TN 07 BU 0898 near the petitioners' house, the <https://www.mhc.tn.gov.in/judis> CrI.O.P.(MD)No.13303 of 2024 petitioners and other accused blocked the defacto complainant, abused them, caused injuries, damaged the car and caused criminal intimidation.

4.The main contention of the petitioners is that in the wound certificate, dated 04.06.2022, issued by the Assistant Surgeon of Government Medical College and Hospital, Ramanathapuram, it has been shown that the second respondent was admitted on 04.06.2022 and discharged on 14.06.2022, but, in the statement, recorded under Section 161(3) Cr.P.C., from the said Doctor disclosed that the second respondent was admitted on 28.05.2022 itself, that the signature of the Sub Inspector of Police was not found in the observation mahazar and that there are no specific allegations as against the petitioners.

5.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 <https://www.mhc.tn.gov.in/judis> CrI.O.P.(MD)No.13303 of 2024 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.

(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 <https://www.mhc.tn.gov.in/judis> CrI.O.P.(MD)No.13303 of

2024 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 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;
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1. 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.”

6.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 and with caution and only when such exercise is justified by the tests specifically laid down in the Section itself.

7.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.

8.As rightly contended by the learned Government Advocate(Crl.side), the pleas raised/canvassed by the petitioners, by no stretch of imagination, can be considered as reasons/grounds to quash the charge sheet and the same are matter for trial. Except the above, the petitioners have not shown any

other valid reason or ground to quash the charge sheet.

9.A cursory perusal of the charge sheet and the documents filed along with charge sheet would make it clear that there existed a prima facie case to proceed against the petitioners and the grounds now raised by the petitioners are all matter for trial and the same cannot be canvassed before this Court.

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10.Considering the above and also taking note of the fact that this is not a fit case to quash the complaint in C.C.No.241 of 2024 pending on the file of the learned Judicial Magistrate No.II, Ramanathapuram against the petitioners, this Court concludes that the petition is devoid of merit and the same is liable to be dismissed.

11.In the result, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1.The Judicial Magistrate No.II,
Ramanathapuram.

2.The Inspector of Police,
Kenikkarai Police Station,
Ramanathapuram District.

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

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K.MURALI SHANKAR,J.

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