

Indhumathi vs State Represented By on 9 August, 2022

CrI.O.P.(MD)

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 19.09.2024

Delivered on : 30.10.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

CrI.O.P.(MD)No.15613 of 2024

and

CrI.M.P(MD)Nos.9776 and 9777 of 2024

Indhumathi

... Petitione

Vs.

1.State represented by
The Sub-Inspector of Police,
Gandamanur Vilakku Police Station,
Theni District.
(Crime No. 210 of 2021)

2.Deepak

... Respon

PRAYER : Criminal Original Petition filed under Section 528 of BNSS to call for the records of the case in S.C.No.42 of 2024, dated 09. pending on the file of the Sub Court, Theni and quash the same.

For Petitioner : Mr.S.Sundara Pandian

For Respondents : Mr.K.Sanjai Gandhi,
Government Advocate (CrI. Sid
for R1.

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CrI.O.P.

ORDER

This Criminal Original Petition has been filed, invoking Section 528 of BNSS., seeking orders, to call for the records of the case in S.C.No.42 of 2024, dated 09.08.2022 pending on the file of the Sub Court, Theni and quash the same.

2. The case of the prosecution is that the first accused Jeyaprabhu was the second accused in the case in Crime No.133 of 2021 on the file of the Mayiladumparai Police Station; that when he was arrested 19.06.2021 and was taken to Government Hospital for getting fitness certificate, the said accused had beaten himself and hence, he was admitted as inpatient in K.Vilakku Theni Government Medical College Hospital; that the other accused Ravi, Riyas, Rajesh involved in Mayiladumparai Police Station case were also taking inpatient treatment in the said Hospital; that when the Hospital Authority had attempted to discharge the accused Jeyaprabu on 22.06.2021, in order to avoid to be lodged in the jail, he had damaged the window glass in the rest room of the hospital and caused injuries to himself and abused the police in filthy language and caused criminal https://www.mhc.tn.gov.in/judis CrI.O.P.(MD)No.15613 of 2024 intimidation; that when the said accused Jeyaprabu was attempting to go out of the hospital, the police officials, who were on duty had attempted to stop the accused and at that time, the present petitioner, wife of the said accused Jeyaprabu had pushed the police officials and threatened that if anybody touches her husband, she would tear her saree and lodge a false complaint against the police officials and thereby she had accompanied her husband towards the hospital gate; that the said accused Jeyaprabu had caused disruption to the traffic and public and that other accused had restrained the police officials from taking the accused Jeyaprabu into the hospital.

3. On the basis of the complaint lodged by the second respondent, the Sub-Inspector of Police registered an FIR in Crime No.210 of 2021 against four persons including the petitioner for the alleged offence under Sections 224, 294(b), 341, 353, 506(ii) IPC and Section 3 of TNPPDL Act; that after completing the investigation, charge sheet came to be filed before the jurisdictional Magistrate Court and after committal, the case was taken on file in S.C.No.42 of 2024 and is pending on the file of the Assistant Sessions Court/Sub Court, Theni.

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4. The main contention of the petitioner is that the police has been trying to foist case after case against her husband falsely and that when the petitioner had tried to meet the media person to reveal the illegal attitude of the respondent police, they have foisted a false case against the petitioner.

5. As rightly contended by the learned Government Advocate (Criminal Side), it is not the case of the petitioner that she was not at all present at the time of occurrence, but on the other hand, she herself has stated in the ground for quashing the charge sheet that she had tried to meet the media persons. The next contention of the petitioner is that she is having 1 1/2 year old baby and that she is a house wife.

6. As rightly contended by the learned Government Advocate (Criminal Side), the above reasons, by no stretch of imagination, can be taken as reasons or grounds to quash the charge sheet, as the same

cannot be gone into at this stage and are matter for trial. Except the above, the petitioner has not canvassed any other reason or ground to impugn the charge sheet.

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7. 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 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 <https://www.mhc.tn.gov.in/judis> Crl.O.P.(MD)No.15613 of 2024 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 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 <https://www.mhc.tn.gov.in/judis> Crl.O.P.(MD)No.15613 of 2024 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; (7) 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.”

8. 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.

9. 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, <https://www.mhc.tn.gov.in/judis> Crl.O.P.(MD)No.15613 of 2024 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.

10. A cursory perusal of the final report and the statements filed along with the final report would make it clear that there existed a prima facie case to proceed against the petitioner and it is a matter for trial.

11. Considering the above and also the submission made by the learned Government Advocate (Criminal Side) and also taking note of the fact that this is not a fit case to quash the charge sheet against the petitioners. Hence, this Court concludes that the Criminal Original Petition is devoid of merits and the same is liable to be dismissed. <https://www.mhc.tn.gov.in/judis> Crl.O.P.(MD)No.15613 of 2024

12. In the result, the Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

30.10.2024 NCC : Yes / No Index : Yes / No Internet : Yes / No das To

1.The Sub-Inspector of Police, Gandamanur Vilakku Police Station, Theni District.

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

<https://www.mhc.tn.gov.in/judis> Crl.O.P.(MD)No.15613 of 2024 K.MURALI SHANKAR,J.

das Order made in Crl.O.P.(MD)No.15613 of 2024 and Crl.M.P(MD)Nos.9776 and 9777 of 2024 Dated: 30.10.2024 <https://www.mhc.tn.gov.in/judis>