IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-02-2015

Coram

THE HONOURABLE MR. JUSTICE R.S. RAMANATHAN

Crl.O.P. No. 6396 of 2014
and
M.P. No. 1 of 2014
M.P. No. 1 of 2015

Mrs. Sharmila ...Petitioner

Versus

1. Mrs. M. Irene Manohar
2. State represented by
The Inspector of Police
R-5, Choolaimedu Police Station (Crime)
Chennai ...Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in F.I.R. in Crime No. 1522 of 2013 dated 16.12.2013 on the file of the second respondent police and quash the same.

For Petitioner : Mr. M. Jaikumar

For Respondents : Mrs. Nalini Chidambaram,
Senior Advocate
for Ms. C. Uma for R1

Mr. M. Maharaja
Additional Public Prosecutor for R2

ORDER

The petitioner is arrayed as third accused in the case in Crime No. 1522 of 2013 registered on the file of the second respondent police. The said case came to be registered on the basis of the complaint given by the first respondent herein. Contending that the registration of the case in Crime No. 1522 of 2013 as against the petitioner is an abuse of process of law, the present Criminal Original Petition is filed.

2. It is submitted by the learned counsel for the petitioner that earlier, a similar complaint dated 03.10.2013 was given by the

first respondent herein before the Commissioner of Police, Egmore and that was forwarded to the Inspector of Police, E-1, Mylapore Police Station for enquiry. After conducting an enquiry, the Inspector of Police, Mylapore by proceedings dated 16.10.2013 informed the first respondent herein that the dispute is civil in nature and that has to be resolved through a Civil Forum. According to the learned counsel for the petitioner, the first respondent, suppressing the earlier complaint and the enquiry conducted by the Inspector of Police, E-1, Mylapore Police Station, has sent a complaint to the Honourable Chief Minister's Grievance Cell by adding one sentence to the effect that the first accused personally came to her house at Choolai and collected the cash. Such an averment was not made in the earlier complaint dated 03.10.2013. The said complaint was forwarded to the second respondent on 16.12.2013 based on which the present case in Crime No. 1522 of 2013 was registered for the alleged offences punishable under Section 406, 420 and 506 (i) of IPC. Therefore, it is submitted by the learned counsel for the petitioner that the first respondent is guilty of suppression of the earlier complaint dated 03.10.2013 and the enquiry conducted thereon by the Inspector of Police, Mylapore Police Station, Chennai. It is further submitted by the learned counsel for the petitioner that a reading of the present complaint will make out a case of civil transaction and no criminal offence is made out. Even assuming that the allegations made in the complaint make out a criminal case, there is no material furnished by the first respondent to implicate the petitioner as an accused in the said case and on that ground also, the criminal proceedings against the petitioner in Crime No. 1522 of 2013 are liable to be quashed.

3. Mrs. Nalini Chidambaram, learned Senior counsel appearing for the defacto complainant/first respondent would contend that in the present complaint, it has been clearly stated that the petitioner, who is arrayed as A-3 was hand in glove with her husband, A-1 and she has also given false promises and committed breach of trust. Therefore, according to the learned senior counsel for the first respondent, allegations were made against the petitioner in the present complaint which would make out an offence punishable under Section 406, 420 and 506 (i) of IPC. Therefore, at this stage, the criminal proceedings against the petitioner need not be quashed. The learned senior counsel for the first respondent placed reliance on the decision of the Honourable Supreme Court in the case of (Gangabhavani vs. Rayapati Venkat Reddy and others) (2013) 15 Supreme Court Cases 298, in particular, reference was made to para No. 20 thereof, and submitted that the first information report filed by a police officer cannot be quashed under Section 482 of Cr.P.C. on the ground that details relating to overtact attributable on the part of each accused has not been elaborately dealt with in the complaint. In the said decision, the Honourable Supreme Court has held that a first information report is not an encyclopaedia of all the facts and it is quite natural that all the

names and details may not be given in the complaint where a large number of accused are involved. Therefore, according to the learned senior counsel for the first respondent, merely because the first respondent did not furnish in detail the overtact against the petitioner, it will not be a ground for quashing the first information report against her.

4. On the above contention of the learned counsel for the petitioner and the learned Senior counsel for the first respondent, I heard the learned Additional Public Prosecutor appearing for the second respondent.

5. On appreciation of the contentions of the learned counsel for the petitioner and the learned senior counsel for the first respondent, this Court is of the view that the first information report as against the petitioner has to be quashed. In that context, the complaint given by the first respondent is required to be analysed. The relevant portion of the complaint given by the first respondent reads as follows:-

> "..... When I come to know about this I asked Venkat to repay all the loan taken, he started shouting of me and told me to go to Court of law and do whatever I want and that no one can do anything to him even if I go to the CM Cell. He threatened me to kill my only daughter, if I ever dare come to this office again. He blackmailed and misused me for his office work and finance. Through this letter, I please your intervention to recover my money from Mr. Venkat Ramanujam and Sudheer Kuttan. They not only cheated a poor women but had stolen the original document of the property from Venkat which was pledged in HDFC and taken the loan. I humbly request you to recover my money or take this property from Venkat which was pledged in HDFC Bank with the stolen documents and hand over this property with possession to me as binding for my payment due of Rs.17 lakhs (10 and 4.65 lacks was paid by RTGS and Rs.2,00,000/- and Rs.35,000/- cash was given by me to Venkat who had personally came to my house in Choolaimedu and collected the cash in the above mentioned house. After consultation and retainer fees which I worked in this office for 6 months on Rs.75,000/- per month as remuneration has not been given by Mr. Venkat Subramaniam. Since I am a diabetic patient I am suffering chest, hypertension and stress due to their threatening and roudism. Kindly investigate this genuine case of mine and punish the 3 Accused person Mr. Venkat Ramanujam, Ms. Sharmila, wife of Venkat and Sudheer Kuttan, who were hands in forge with false promising, lies, fraud and breach of trust and thereby committed offence under Section 120 (b), 420, 379 and 506 (i) of IPC. I absolutely Trust you Sir, to save a poor women and shall

be forever grateful to you for getting natural justice.
Thanking you.

6. A perusal of the first paragraph in the complaint would disclose that the first respondent was acquainted with A-1 Venkata Ramanujam, who introduced the A-2 to her. In the second paragraph it was stated that both A-1 and A-2 have reposed faith, confidence and sympathy on her and taken money from her. In that connection, it was complained that both A-1 and A-2 owe to the first respondent a sum of Rs.22,48,250/-. It is further stated that for such loan taken by them, the property of the petitioner/A-3 was mortgaged as collateral security by the first accused, but later the property document was stolen and mortgaged with HDFC Bank to raise a loan of Rs.49,00,000/-. On the one hand, the first respondent complained that A-1 and A-2 have reposed confidence on her to take money and on the other hand, she admitted that the property stood in the name of the petitioner/A-3 was utilised for creating collateral security to clear the loan amount payable to her, of course, it was complained that the said document was stolen and pledged with HDFC bank for raising a loan. However, in the last paragraph of the complaint, the first respondent prayed for initiating action against all the accused as they were hand in glove with each other. Thus, a reading of the present complaint does not make out any allegation much less specific allegation as against the petitioner/A-3 and the allegations are only against A-1 and A-2. However, at this stage, I do not want to go in to the merits of the complaint given by the first respondent. But, suffice it to state that there is no specific overtact or allegations made in the complaint as against the petitioner/A-3. At this stage, the learned counsel for the petitioner would contend that even the averments made against A-1 and A-2 are vague and baseless, such a contention urged by the petitioner cannot be gone in to in the present proceedings filed by the petitioner/A-3. In any event, having regard to the nature of the complaint and the allegations made against the petitioner/A-3, especially in the last sentence the first respondent has collectively stated that the accused are hand in glove with each other, I am of the view that there is no specific overtact alleged against the petitioner in the present complaint. Even assuming that there are some allegations against the other accused, there are no materials made available to implicate the petitioner/A-3 in the criminal proceedings.

7. In the decision relied on by the learned Senior counsel for the first respondent in the case of (Gangabhavani vs. Rayapati Venkat Reddy and others) (2013) 15 Supreme Court Cases 298, it was held that a first information report is not an encyclopaedia of all the details that are required for making out a criminal offence and a criminal case cannot be quashed on that ground. No doubt, it is true that a criminal case cannot be quashed on the ground that the averments or allegations against each of the accused are not

elaborate. However, in the present case, there is no specific allegation made against the petitioner/A-3. As mentioned above, there are also no materials available to implicate the petitioner in the criminal case. Therefore, the ratio laid down by the Honourable Supreme Court in the above decision cannot be made applicable to the present case.

8. It is to be noted that the petitioner/A-3 happened to be the wife of A-1 but that will not be a ground to implicate her in the criminal case. Merely because the property which was used for creating a collateral security stood in the name of the petitioner/A-3 that will not be a reason to implicate her in the criminal case. Therefore, the case as against the petitioner/A-3 in Crime No. 1522 of 2013 on the file of the second responent is liable to be quashed. Accordingly, the case as against the petitioner/A-3 in Crime No. 1522 of 2013 on the file of the second respondent is quashed. The Criminal Original Petition is allowed. However, it is made clear that if the investigation officer want to collect any materials to implicate the petitioner/A-3 during the course of investigation, that will not preclude the investigation officer to array her as an accused at the time of filing the charge sheet as contemplated under law. The investigation officer is directed to file the charge sheet in the present case on or before 30.06.2015. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(LA)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
R-5, Choolaimedu Police Station (Crime)
Chennai.

2. The Public Prosecutor,
High Court, Madras.

Crl.OP No. 6396 of 2014

SSI (CO)
PSI (26.02.2015)