

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.20516 of 2016

Rubasthri

..Petitioner

Vs.

1. The Sub-Inspector of Police,
Muthialpet Police Station,
Puducherry.

2. Ibrahim Sanchi,
S/o. Mohammed Ismail,
Manager, Soorya International School,
No. 375, M.G. Road, Muthialpet,
Puducherry.

.. Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the first information report in Crime No. 19 of 2016 pending investigation on the file of the sub-inspector of police, Muthialpet Police Station, Puducherry, quash the same.

For Petitioner : Mr.K.Elangovan

For Respondent : Mr. M.R.Thamgavel, (Pondy)
No.1 Additional Public Prosecutor

O R D E R

This criminal original petition has been filed seeking a direction to call for the records pertaining to the first information report in Crime No. 19 of 2016 pending investigation on the file of the Sub-Inspector of police, Muthialpet Police Station, Puducherry and quash the same.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor (Pondy) appearing for the first respondent.

3. It is seen that the petitioner was working as Cashier in Soorya International School from 16.04.2014 to 22.08.2015. While so, the petitioner resigned his job from the school and gave a complaint dated 28.09.2015 to the first respondent police

alleging that the school management is making false accusation against her that she has misappropriated the school fund and fabricated the records. The petitioner has also alleged that the school management had demanded Rs. 1,50,000/- (Rupees one lakh fifty thousand only), which, she handed over to the management on 04.09.2015.

4. The school management gave a complaint dated 29.09.2015 to the respondent police making similar allegations and since the respondent police did not register an FIR, the school management filed Crl.OP.No. 27013 of 2015 for a direction to the respondent police to register an FIR on their complaint dated 29.09.2015, in which, this Court on 03.11.2015 passed the following orders:-

"4.Considering the submissions made on either side, this Court is of the opinion that the respondents are directed to conduct enquiry based on the complaint of the petitioner dated 29.09.2015 and upon enquiry, if materials are gathered indicating commission of any cognizable offense, the respondents are directed to proceed further in accordance with law, preferably within a period of two months."

5. With the above directions, this criminal original petition is disposed of."

5. The petitioner also filed Crl.OP.No.4892 of 2016 for a direction to the respondent police to register an FIR against the school management, on her complaint dated 28.09.2015, in which, this Court, on 04.03.2016, passed the following orders:-

"4. Considering the rival submissions made on both sides, on the basis of the complaint made by the petitioner, as enquiry is going on in C.S.R.No. 65 of 2015, the second respondent is directed to expedite the enquiry and follow the dictum laid down in Lalitha Kumari Vs. Govt. of U.P.& others (2013 (4) Crimes 243 (SC) and register a case, if any cognizable offense is made out. The petitioner is also directed to co-operate for enquiry.

5. The Criminal Original Petition is disposed of with the above direction."

Thereafter, the police conducted enquiry in both the complaints and a case has been registered against the petitioner in crime No. 19/2016 on 08.03.2016 for offences under sections

403, 408, 468, 471, 477-A IPC, challenging which, the petitioner is before this Court.

6. The learned counsel for the petitioner submitted that the FIR, in this case, has been registered, based on, a fresh compliant given by the school management on 08.03.2016. But whereas, in the preamble portion of the FIR, the police have referred to Crl.OP.No.27013 of 2015, which is a misnomer. He further submitted that the police ought to have registered the FIR, based on the compliant dated 29.09.2015 and not on the complaint dated 08.03.2016. The learned counsel also brought to the notice of this Court the communication of the Sub-Inspector of Police, Muthialpet Police Station, dated 25.04.2016, that has been addressed to the petitioner, wherein, Crl.OP.No.27013 of 2015 and the complaint dated 29.09.2015 has been cited in the reference column.

7. It is the contention of the learned counsel for the petitioner that the complaint dated 08.03.2016 cannot form the basis of the FIR and only the complaint dated 29.09.2015 should form the basis of FIR.

8. The learned Additional Public Prosecutor for the first respondent submitted that pursuant to the direction issued by this Court in Crl.OP. No.27013 of 2015 and Crl.OP.No. 4892 of 2016, the police called both the parties and conducted the enquiry and after the enquiry, the complaint given by the petitioner was closed and on the complaint dated 08.03.2016 given by the school management, the FIR has been registered, which cannot be said to be illegal.

9. This Court gave its anxious consideration to the rival submission.

10. Technically, the learned counsel for the petitioner may be right in saying that the FIR should have been registered on the complaint dated 29.09.2015 and not based on the complaint dated 08.03.2016. But that alone cannot be a ground for quashing the FIR. If the complaint discloses the commission of a cognizable offence, irrespective of the date, FIR can be registered.

11. In this case, on a reading of the complaint dated 08.03.2016, it is alleged by the school management that the petitioner has been systematically swindling the money by making entries in the carbon copies of the bill books and yet another allegation is that instead of refunding the caution deposit amount to the parents, this petitioner had misappropriated the amount and had informed the parents that the caution deposit had been adjusted under the other heads. The complaint dated 08.03.2016, thus discloses the commission of

cognizable offence for the prosecution to proceed. However, it is always open to the petitioner to take a defence, if the final report filed is against her, based on the earlier complaint dated 29.09.2015 to show that there are contradictions in the case of the school management. Under such circumstances, this is not a fit case to quash the FIR at the threshold.

With the above observations, the criminal original petition is dismissed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The Sub-Inspector of Police,
Muthialpet Police Station,
Puducherry.
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.Elangovan, Advocate Sr.51347
+1cc to the Government Pleader Sr.51725

सत्यमेव जयते

Cr1.OP No.20516 of 2016

rj[col]
srg 26/09/2016

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