



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.07.2020

CORAM:

THE HONOURABLE Mr.JUSTICE R.PONGIAPPAN

CRL OP(MD)No.7285 of 2020

and

CRL MP(MD)No.3555 of 2020

WEB COPY

1.Raja Mohammed
2.Abdul Rahman
3.Mohammed Satham Hushen ... Petitioners / A1 to A3

Vs.

1.The Inspector of Police,
Pulithipatty Police Station,
(in Cr.No.54 of 2020),
Sivagangai District. ... 1st Respondent / Complainant
2.M.Mydeen ... 2nd Respondents / Defacto
Complainant

PRAYER: Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the impugned FIR in Cr.No.54 of 2020, on the file of the 1st respondent and quash the same as illegal.

For Petitioners : Mr.S.Muthalraj
For Respondent-1 : Mr.S.Chandrasekar
Additional Public Prosecutor

O R D E R

The petitioners are arrayed as A1 to A3, in Crime No.54 of 2020, registered under Sections 294(b), 323, 324 and 506(i) of IPC., pending on the file of the 1st respondent Police. This Criminal Original Petition has been filed by the petitioners to quash the said FIR, as illegal.

2. The learned counsel appearing for the petitioners made a submission that the petitioners have not committed any offence as alleged in the F.I.R., however, the first respondent had mechanically registered the impugned FIR without any reasons. The registration of the above case against these petitioners, by the respondent Police, is on the face of it illegal, erroneous and contrary to the facts and circumstances of the case. He would further submit that the registration of the above proceedings on the file of the first respondent is untenable and unsustainable in law and as such, the same is liable to be quashed.

3. The learned Additional Public Prosecutor would submit that after the completion of petition mentioned occurrence, both the



petitioners and the second respondent / defacto complainant lodged a separate complaint against each other before the 1st respondent police. On receipt of the same, against the petitioners, a case has been registered in Crime No.54 of 2020, under Sections 294(b), 323, 324 and 506(i) of IPC.,

4. On the other hand, based on the complaint given by the petitioner, another one case was registered against the 2nd respondent in Crime No.53 of 2020, under Sections 294(b), 323 and 506(i) of IPC. He would further submit that as of now, 7 witnesses have been examined by the Investigation Officer.

5. Now, considering the submissions made by either side, it is not in dispute that cases have been registered against the petitioners as well as the 2nd respondent and therefore, it is a case of case in counter. In the said circumstances, it is the duty of the 1st respondent to find out the aggressor and proceed with the investigation.

6. However, once the regular FIR was registered against the petitioners for the offence under Section 294(b), 323, 324 and 506 (i) of IPC., the same has to be tested only after receiving the final report. According to the learned Additional Public Prosecutor, the wound certificate of the injured has also been received from the Doctor.

7. In the said circumstances, it is necessary to see the Judgment of Hon'ble Supreme Court in **State of Hariyana and Others Vs. Bhajan Lal and Others** reported in **1992 Supp (1) SCC 335** wherein, in respect to quashing of the FIR, the following conditions are formulated, which reads as follows:-

"(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 FIR 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



WEB COPY

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non- cognizable offence, on 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 grounds for proceedings 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 proceedings 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 malafide 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. Now, applying the said test with the case in our hand, in the present case, the allegation made in the complaint, do clearly constitute a cognizable offence justifying the registration of the case and an investigation thereon and this case does not fall under any one of the categories of cases formulated above calling for the exercise of extraordinary or inherent powers of this Court to quash the FIR itself. Therefore, at any circumstances, the reasons stated by the petitioners are not in a way to consider the prayer sought for by the petitioners.

9. In fine, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petitions are also dismissed.

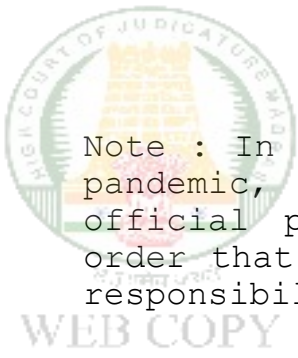
Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Inspector of Police,
Pulithipatty Police Station,
Sivagangai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CRL OP(MD)No.7285 of 2020
13.07.2020

AP (28.07.2020) 4P-3C