



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2020

CORAM:

THE HONOURABLE Mr.JUSTICE R.PONGIAPPAN

CRL OP(MD)No.7671 of 2020

and

Cr1.M.P. (MD)No.3689 of 2020

WEB COPY

1.M.Pradeep Kannan
2.M.Kathiresan
3.M.Gomathi
4.V.Mathimohan

... Petitioners/Accused 1 to 4

Vs.

1.The Inspector of Police,
Ayakkudi Police Station,
Palani Taluk,
Dindigul District.

2.Meena, W/o.M.Pradeep Kannan ... Respondents/Complainants

PRAYER: Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records pertaining to the F.I.R. registered against the petitioners in Crime No.587 of 2020, dated 22.06.2020, on the file of the first respondent police and quash the same.

For Petitioners : Ms.J.Balameenakshi

For R1 : Mr.S.Chandrasekar
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to quash the F.I.R. registered against the petitioners in Crime No.587 of 2020, dated 22.06.2020, on the file of the first respondent police, as illegal.

2.The learned counsel appearing for the petitioners would submit that the petitioners herein, who are arrayed as A1 to A4 in Crime No.587 of 2020, on the file of the first respondent police, are the husband and in-laws of the second respondent/de-facto complainant respectively. In fact, no such occurrence had happened as alleged by the second respondent/de-facto complainant. Only due to previous enmity, the second respondent herein lodged the complaint against the petitioners, pursuant to which, the first respondent police had registered the case against them.



3.Per contra, the learned Additional Public Prosecutor appearing for the first respondent police would submit that the averments set out in the First Information Report would clearly disclose the fact that due to family dispute, all the petitioners herein assembled together and assaulted the second respondent/de-facto complainant. Upon considering the nature of offence committed by the petitioners, the present F.I.R. has been registered against them.

4.Upon considering the arguments advanced by the learned counsel appearing on either side, it is not in dispute that the petitioners herein are arrayed as A1 to A4 in Crime No.587 of 2020, on the file of the first respondent police. The said F.I.R. has been registered against them for the offences punishable under Sections 294(b), 323, 498(A) and 506(i) IPC.

5.Now, on a careful reading of the averments contained in the First Information Report would clearly disclose the fact that due to family dispute, the first petitioner, who is the husband of the second respondent/de-facto complainant, assaulted her and attempted to take the 'Thali Kodi' and also poured Kerosene on the mouth of the second respondent with the help of the third petitioner, who is the mother-in-law of the second respondent. So, the said averment would clearly constitute a cognizable offence against them.

6.At this juncture, it is necessary and useful to see the judgment of our Hon'ble Apex Court in the case of **Sau.Kamal Shivaji Pokarnekhar Vs. The State of Maharashtra and others [Criminal Appeal No.255 of 2019, dated 12.02.2019]**, wherein it has been held as follows:-

'9. A perusal of the complaint discloses that prima facie offences that are alleged against the respondents. The correctness or otherwise of the said allegations has to be decided only in the Trial. At the initial stage of issuance of process it is not open to the Court to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused.'

7.Further, in **Ajay Kumar Das Vs. State of Jharkand and others** reported in **2011 (12) SCC 319**, our Hon'ble Apex Court has held that genuineness of the allegations/charge is an issue to be tried and the Court in exercise of its jurisdiction under Section 482 of the Code of Criminal Procedure cannot delve into such factual controversy so as to quash the proceedings.

8.Moreover, in **State of Haryana Vs. Bhajan Lal and others** reported in **1992 Supp (1) SCC 335**, our Hon'ble Apex Court has



summarized the legal position, by laying the following guidelines to be followed by the High Courts in exercise of their inherent powers to quash a criminal complaint:-

(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 accused.

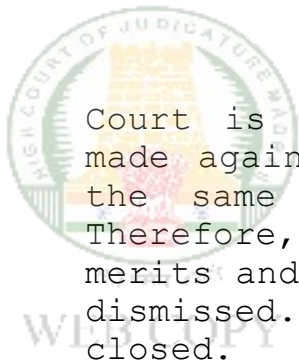
(4) Where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a Police Officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(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 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 *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.

9. Therefore, applying the ratio laid down by our Hon'ble Apex Court in the above referred cases with the case on hand, this



Court is of the view that uncontroverted allegations have been made against the petitioners in the First Information Report and the same has to be tested only during the time of trial. Therefore, the petition filed by the petitioners, is devoid of merits and the same is liable to be dismissed. Accordingly, it is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

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Sub Assistant Registrar (CS)

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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,
Ayakkudi Police Station,
Palani Taluk,
Dindigul District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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