



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :16.09.2020

CORAM:

THE HONOURABLE Mr.JUSTICE R.PONGIAPPAN

CRL OP(MD)No.9747 of 2020

and

CRL MP(MD)No.4540 of 2020

WEB COPY

Panchatsaram ... Petitioner /Sole Accused

Vs.

1.The Inspector of Police,
Chathirakudi Police Station,
Ramanathapuram District. ... Respondent/Complainant
(in Cr.No.168 of 2020)

2.Arunpandian ... 2nd Respondent/Defacto Complainant

PRAYER: Petition filed under Section 482 of Criminal Procedure Code, to call for the records of the 1st respondent in First Information Report in Crime No.168 of 2020 and quash the same.

For Petitioner : Mr.P.Ganapathi Subramanian

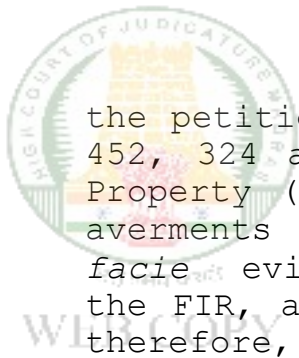
For Respondent-1 : Mr.S.Chandrasekar
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking the relief to call for records pertaining to the First Information Report registered in Crime No.168 of 2020 and quash the same as illegal.

2. Today when the petition is came up for hearing, the learned counsel appearing for the petitioner would submit that due to Panchayat election, the petitioner and the defacto complainant are developed enmity and thereafter, after suppressing the entire things, the defacto complainant lodged a false complaint and upon receipt of the same, the first respondent herein registered a case against the petitioner, which is a clear abuse of process of law. He would further submit that in connection with the subsequent event, one another case has also been registered and therefore, he prayed to quash the First Information Report.

3. In response to the submission made by the learned counsel appearing for the petitioner, the learned Additional Public Prosecutor appearing for the respondents, on instructions, would submit that upon receipt of the complaint given by the defacto complainant, the first respondent police registered a case against



the petitioner in Crime No.168 of 2020, under Sections 294(b), 448, 452, 324 and 506(ii) of IPC., and Section 3(1) of the Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992. Further, the averments found in the First Information Report disclose a *prima facie* evidence for the cognizable offence and therefore, quashing the FIR, at this stage, is against the settled position of law and therefore, he prayed to dismiss the application.

4. Now, on considering the rival submissions made by the counsels appearing on either side and on go through the averments found in the FIR, while at the time of occurrence, the petitioner herein made remarks against the defacto complainant and thereafter, by using the iron rod, assaulted the defacto complainant. It is further alleged that during the time of occurrence, the defacto complainant damaged the chairs, which were kept in the pancchayat office. Therefor, the said averments had clearly constitute a *prima facie* case for cognizable offence. At this juncture, it is relevant and useful to see the Judgment of our Hon'ble Apex Court in ***Sau. Kamal Shivaji Pokarnekar Vs. The State of Maharashtra & Ors*** reported in ***(2019 SCC OnLine SC 182)***, wherein in paragraph No.5, it has been held as follows:-

"5. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same. It is not necessary that a meticulous analysis of the case should be done before the Trial to find out whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in the light of the statement made on oath that the ingredients of the offence are Sonu Gupta v. Deepak Gupta and Ors. 2015 (3) SCC 424. disclosed, there would be no justification for the High Court to interfere."

5. Further, in the case of Ajay Kumar Das vs State Of Jharkhand & Ors., made in Crl.A.No.1735 of 2011, our Hon'ble Apex Court has held as follows:-

"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."



6. So, applying the principles set out by our Hon'ble Apex Court in the above referred cases, herein also, as already observed that since the averments found in First Information Report is in respect to the factual aspects, this Court is not in a position to entertain this Petition, at this stage. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

MPK

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,
Chathirakudi Police Station,
Ramanathapuram District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

**CRL OP(MD)No.9747 of 2020
16.09.2020**

VB (28.09.2020) 3P 3C