



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.O.P.NO.10135 OF 2019

AND

CRL.M.P.NO.5240 OF 2019

S.Madhan

... Petitioner/Accused 2

.Vs.

1. The Inspector of Police,
R-4, Pondy Bazaar Police Station,
(TIW), Pondy Bazaar, Chennai.
(Crime No.359 of 2018)

... 1st Respondent/Complainant

2. Janakiraman

... 2nd Respondent/
Defacto Complainant

PRAYER:-

Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records and quash the proceedings in FIR under Crime No.359 of 2018 against the petitioner/2nd accused.

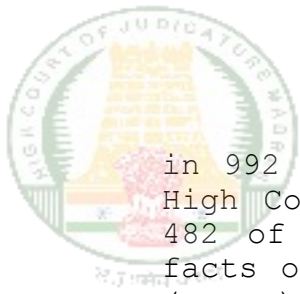
For Petitioner : Mr.V.Ramamurthy

For Respondent : Mr.A.Gopinath
Government Advocate (Crl. side)

ORDER

This petition has been filed quash the proceedings in FIR in Crime No.359 of 2018 against the petitioner/2nd accused.

2. Even at the outset, this Court is of the view that the documents available on record reveal that the issue relates to disputed question of fact which cannot be gone into in a petition under Section 482 of Cr.P.C. and without trial, at the very threshold, FIR cannot be quashed. The decision in the case of State of Haryana and others Vs. Bajan Lal and others reported



in 992 (1) SCC 335. the Hon'ble Supreme Court has held that the High Court has vested with power of quashing FIR under Section 482 of Cr.P.C. and the same cannot be made applicable to the facts of the present case, as a condition laid down in Bajanlal (supra) does not stand fulfill in the present case on hand. For better appreciation, the relevant portions in the order are extracted hereunder:

"In the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, the following categories of cases are given by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guide myriad kinds of cases wherein such power should be exercised:

(a) 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;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. 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;

(c) 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;

(d) 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;

(e) 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



WEB COPY

reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding 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;

(g) 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. In the instant case, the allegations made in the complaint, do clearly constitute a cognizable offence and this case does not call for the exercise of extraordinary or inherent powers of the High Court to quash the F.I.R. Itself."

3. That being the admitted position, when the matter is taken up for hearing, the learned Government Advocate submitted that during pendency of this petition, the respondent police conducted enquiry and charge sheet made ready and yet to be filed. In view of the stay granted by this Court, Charge sheet has not been filed before the concerned jurisdictional Court.

4. The learned counsel for the petitioner seeks liberty to file an appropriate petition as and when the charge sheet is taken on file before the trial Court.

5. Recording the same, this petition is closed and liberty is granted to the petitioner to work out his remedy in the manner known to law. Interim order already granted by this Court is vacated. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rli



To

1. The Inspector of Police,
R-4, Pondy Bazaar Police Station,
(TIW), Pondy Bazaar,
Chennai.

2. The Public Prosecutor,
High Court, Madras.

CRL.O.P NO.10135 OF 2019 AND
CRL.M.P.NO.5240 OF 2019

MG (CO)
PBS/29/10/2021