



IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 05.10.2021  
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.No.28401 of 2018

And

CrI.M.P.Nos.16538 and 16229 of 2018

Arivudainambi

... Petitioner

Vs.

1.State rep. by Inspector of Police  
Tarapuram Police Station,  
Tiruppur District.  
(Crime No.485 of 2013)

2.Jinnah

... Respondents

Prayer:

Petition filed under Section 482 of Cr.P.C., seeking to call for the records relating to the C.C.No.76 of 2014 on the file of the Judicial Magistrate, Tarapuram and quash the same.

|                 |                                                 |
|-----------------|-------------------------------------------------|
| For Petitioner  | : Mr.V.Murugesan                                |
| For Respondents | : Mr.C.E.Pratap for R1<br>for Public Prosecutor |

#### O R D E R

This petition has been filed seeking to call for the records relating to C.C.No.76 of 2014 on the file of the learned Judicial Magistrate, Tarapuram and to quash the same.

2.The facts of the case is that the defacto complainant purchased a bureau to one Rajesh, who was working in Tarapuram Municipality for a sum of Rs.3,000/-. The said Rajesh paid a sum of Rs.2,000/- and took the bureau and thereafter he was transferred to Valparai Municipality. When the defacto complainant demanded the balance amount of Rs.1,000/- to the said Rajesh, he asked the defacto complainant to collect it from the petitioner. Thereafter, the petitioner paid a sum of Rs.500/- and the balance amount of Rs.500/- was not paid. When the same was questioned by the defacto complainant, the accused are alleged to have abused the defacto complainant using filthy language and also threatened him with dire consequences.



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Hence, the defacto complainant lodged the complaint before the law enforcing agency. The law enforcing agency after completion of investigation filed charge sheet before the learned Judicial Magistrate, Tarapuram against the accused and the same was taken on file as C.C.No.76 of 2014. The petitioner is charged for the offence under Section 294(b) of I.P.C. Challenging the same, the petitioner has filed this petition.

3.The learned counsel appearing for the petitioner would submit that there is no money transaction inbetween the petitioner and the defacto complainant. Bureau was purchased by one Rajesh and the petitioner also did not assure the defacto complainant that he will pay the money. Since the petitioner is occupying the position of the said Rajesh in the Tarapuram Municipality, he was falsely implicated along with the other accused. The learned counsel further submitted that there is allegation against the other accused only that they abused the defacto complainant. Accordingly, he prayed for allowing this petition.

4.The learned Government Advocate appearing for the first respondent submitted that the issue involved in this case is disputed question of fact which can be decided only during trial and not in a petition filed under Section 482 of Cr.P.C. Accordingly, he prayed for dismissal of the petition.

5.This Court perused the F.I.R. and charge sheet. In the F.I.R., the petitioner was arrayed as A1 and after completion of investigation, in the charge sheet, the petitioner is arrayed as A3. Admittedly, the defacto complainant did not supply bureau to the petitioner, he supplied it to one Rajesh. Though the defacto complainant claims that the petitioner agreed to pay the balance amount of Rs.1,000/-, he did not produce any documents to establish the same. Further, the petitioner is not alleged to have abused the defacto complainant and the allegation is only against the other accused. The only allegation against the petitioner is that when the defacto complainant demanded the amount, the petitioner has instructed him to collect the amount from the said Rajesh.

6.Similar type of issue has been considered by the Hon'ble Apex Court in the decision reported in 1992 AIR 604 (State of Haryana Vs. Bhajan Lal) and the Hon'ble Apex Court had laid down the principles which are required to be taken into consideration by the High Court while exercising its jurisdiction under Section 482 of Cr.P.C for quashing the proceedings. The relevant portion of the decision cited supra reads as follows:



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''(i)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.

(ii)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 S.156(1) of the Code except under an order of a Magistrate within the purview of S.155(2) of the Code.

(iii)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.

(iv)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 Magistrate as contemplated under S.155(2) of the Code.

(v)Where, the allegations 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.

(vi)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.



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(vii)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.''

7.The decision cited supra makes it clear that 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, the High Court would be justified in quashing the proceedings.

8.In the present case, the charge sheet makes it clear that there was previous enmity, and no transaction inbetween the petitioner and the defacto complainant. Hence, this Court has no hesitation to quash the proceedings in C.C.No.76 of 2014 on the file of the learned Judicial Magistrate, Tarapuram, as against the petitioner.

9.This criminal original petition is allowed. The proceedings in C.C.No.76 of 2014 on the file of the learned Judicial Magistrate, Tarapuram, is hereby quashed insofar as the petitioner is concerned. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Judicial Magistrate,Tarapuram.
2. Do through the Chief Judicial Magistrate, Tiruppur.

- 3.The Inspector of Police  
Tarapuram Police Station,  
Tiruppur District.  
(Crime No.485 of 2013)
- 4.The Public Prosecutor,  
High Court of Madras,Chennai 600 104.

+1 cc to Mr.V.Murugesan, Advocate Sr.NO. 52352

Crl.O.P.No.28401 of 2018

And Crl.M.P.Nos.16538 and 16229 of 2018

AJS (CO)

A.SK(12.11.2021)