



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **26.03.2021**

CORAM :

THE HONOURABLE **Mrs. JUSTICE R. HEMALATHA**

Crl.O.P.(MD)No.4707 of 2021
and
Crl.M.P(MD).No.2646 of 2021

D.Murugesan

...Petitioner

/Vs./

1.The Inspector of Police,
Town East Police Station,
Thanjavur.
(crime No.1318 of 2020)

2.R.Nandakumar

...Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.1318 of 2020 on the file of the first respondent and quash the same.

For Petitioner : Mr.S.Sivakumar

For R1 : Mr.A.Robinson

Government Advocate (Criminal side)

ORDER

The present petition is filed seeking to quash First Information Report in Crime No.1318 of 2020 of Town East Police Station.

2.The case of the prosecution is that the petitioner/accused obtained a loan for his business purpose from the Indian Overseas Bank during the year 2011 and since he did not repay the amount due to the Bank, SARFAESI (Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002) proceedings were initiated against him. On 20.09.2020, when the Senior Manager of the Indian Overseas Bank and his wife were at Kurinchi Metro Bazaar, Thanjavur for purchase of certain articles, the petitioner abused them in filthy language and also slapped the Senior Manager. They immediately lodged a complaint with the Inspector of Police, Thanjavur Town East Police Station and the First Information Report in Crime No.1318 of 2020 was registered against the present petitioner for the offences punishable under Sections 294(b), 352 and 506(i) of the Indian Penal Code.



3.The learned counsel appearing for the petitioner contended that though several properties were mortgaged by the petitioner with the Indian Overseas Bank, the Senior Manager of the said Bank has proceeded only against the dwelling house of the petitioner and also in the O.A.No.374 of 2014 filed by the Manager of the Indian Overseas Bank, before the Debts Recovery Tribunal - III, Chennai, certain false allegations were made. His specific contention is that the Senior Manager of the Indian Overseas Bank, without considering the request of the petitioner for one time settlement, approached the Chief Judicial Magistrate, Kumbakonam, Thanjavur District, to take possession of the property under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and also lodged a false complaint against the present petitioner with the first respondent.

4.Mr.A.Robinson, learned Government Advocate (Criminal side), who accepts notice on behalf of the first respondent, on instructions, would contend that the Inspector of Police, Town East Police Station, Thanjavur, on receipt of the complaint from the Senior Manager of Indian Overseas Bank, registered the First Information Report in Crime No.1318 of 2020 and the investigation is at initial stage.

5.Admittedly, the petitioner did not repay the amounts due to the Indian Overseas Bank and the Senior Manager of Indian Overseas Bank had proceeded against the property of the petitioner, under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and a copy of the First Information Report *prima facie* shows that the petitioner has committed offences punishable under Sections 294(b), 352 and 506(ii) of the Indian Penal Code. The investigation is at the initial stage.

6.In the decision reported in **2020 SCC online SC 958 in Skoda Auto Volkswagen India Private Limited vs. State of Uttar Pradesh and others**, it has been held thus :

"It is needless to point out that ever since the decision of the Privy Council in King Emperor vs. Khwaja Nazir Ahmed, the law is well settled that Courts would not thwart any investigation. It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on. As cautioned by this Court in State of Haryana vs. Bhajan Lal, the power of quashing should be exercised very sparingly and with circumspection and that too in the rarest of rare cases. While examining a complaint, the quashing of which is sought, the



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Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or in the complaint. In *S.M. Datta vs. State of Gujarat*, this Court again cautioned that criminal proceedings ought not to be scuttled at the initial stage. Quashing of a complaint should rather be an exception and a rarity than an ordinary rule. In *S.M. Datta (supra)*, this Court held that if a perusal of the first information report leads to disclosure of an offence even broadly, law courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere."

7. In the circumstances, I do not find any reason to quash the First Information Report in Crime No.1318 of 2020. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

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,
Town East Police Station,
Thanjavur.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.4707 of 2021

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