



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.11991 of 2021

and

Crl.M.P. (MD)No.6125 of 2021

WEB COPY

Janadha Kaleeswari

... Petitioner/Accused No.2

vs.

1.State represented by

The Inspector of Police,  
Town Police Station,  
Ramanathapuram.

(Crime No.53 of 2021)

... 1<sup>st</sup> Respondent/Complainant

2.N.Dhanasekaran

... 2<sup>nd</sup> Respondent/

De-facto complainant

**PRAYER :** Criminal Original Petition filed under Section 482 Cr.P.C, to call for the records in Crime No.53 of 2021 on the file of the first respondent dated 10.03.2021 and quash the same as illegal with regard to the petitioner.

For Petitioner : Mr.N.Ananthapadmanabhan

for M/s.APN Law Associates

For Respondents : Mr.E.Antony Sahaya Prabahar

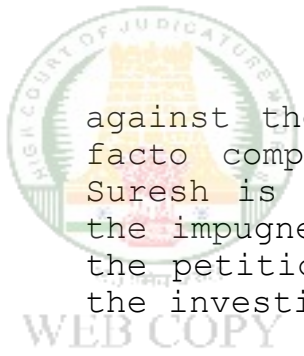
Additional Public Prosecutor for R1

### O R D E R

Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor for the first respondent. Though the defacto complainant had been served, he has not chosen to appear either in person or through counsel.

2.This Criminal Original Petition has been filed to quash the FIR in Crime No.53 of 2021 registered on the file of the Ramanathapuram Town Police Station for the offences under Sections 294(b) and 506(1) IPC.

3.The de-facto complainant Dhanasekaran has implicated one Suresh as having committed the offending acts. Suresh is not the petitioner before this Court. Of course, in the complaint, the de-facto complainant had alleged that the accused Suresh is close to the petitioner herein and that at the instance of the petitioner herein, he had told one Thavamuthu Muneeswaran that he would do away the de-facto complainant and his family. The de-facto complainant would however admit that there is no direct connection between <https://hcmse.courts.gov.in/cases/11991> said Suresh. Some allegations have been made



against the petitioner herein also as if she intimidated the defacto complainant through district level police officers. Since Suresh is not before me and since he is the accused in this case, the impugned FIR cannot be quashed as such. However, I direct that the petitioner shall not be included as an accused in the event of the investigation officer filing a positive final report.

4. There is a reason for passing such a direction. The petitioner is the defacto complainant in Crime No.214 of 2018 registered on the file of Kenikkarai Police Station. The defacto complainant herein namely Dhanasekaran is figuring as the first accused in the said FIR. Final report has been filed against the defacto complainant herein and cognizance has been taken and the case is pending in C.C No.165 of 2020 on the file of the Judicial Magistrate No.II, Ramanathapuram.

5. The petitioner herein is also the defacto complainant in Crime No.253 of 2019 registered on the file of the Kenikkarai Police Station for various offences. Thavamuthu Muneeswaran is figuring as first accused in the said FIR. According to the petitioner's counsel, in order to prevent the petitioner from tendering evidence in C.C No.165 of 2020, the impugned FIR has been registered at the instance of Dhanasekaran. As Thavamuthu Muneeswaran is figuring as an accused in the other complaint filed by the petitioner herein, Dhanasekaran had conveniently roped him as a witness. No credence can be attributed to any statement that may be given by Thavamuthu Muneeswaran against the petitioner herein. The defacto complainant who is figuring as an accused in the Calender Case lodged at the instance of the petitioner herein cannot term a bona fide prosecution as criminal intimidation. The petitioner herein has taken recourse only to legal process.

6. The Hon'ble Supreme Court in ***State of Haryana v. Bhajan Lal (1992) Supp (1) SCC 335***, laid down seven categories of cases by way of illustration wherein the constitutional courts would be justified in invoking the extraordinary power under Article 226 or the inherent powers under Section 482 of Cr.Pc to quash the criminal prosecution. They are as under :

*"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 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.*



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 F.I.R. 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 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.

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."

Parameters 5 and 7 are applicable to the case on hand. The allegations against the petitioner are absurd and inherently improbable. To wreak vengeance on the petitioner, the impugned complaint has been lodged. The mala fides characterizing the impugned prosecution are obvious and evident. The petitioner has been implicated only as a counter blast.

7.With this direction to the first respondent not to include the petitioner in the event of a positive final report being filed, this criminal original petition is disposed of. Connected miscellaneous petition is closed.

Sd/-

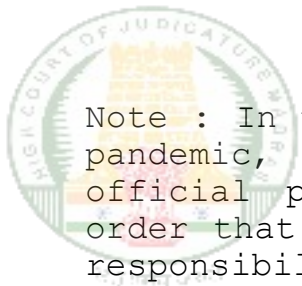
Assistant Registrar (CS-II)

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/ /2022

Sub Assistant Registrar(CS)

skm



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.

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- To
- 1.The Inspector of Police,  
Town Police Station,  
Ramanathapuram.
  - 2.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

**CrI.O.P. (MD) No.11991 of 2021**  
**and**  
**CrI.M.P. (MD) No.6125 of 2021**  
**08.12.2021**

ARK (CO)  
GC (01.03.2022) 4P 3C