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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2022

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THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.17291 of 2016

and

Crl.M.P.No.8272 of 2016

Amalorpavam. R

... Petitioner

Vs.

1.The Sub-Inspector of Police,
All Women Police Station,
Puducherry.

2.Kavitha @ Muniyammal

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to FIR registered in Crime No.2 of 2015 dated 03.03.2015 on the file of first respondent namely the Sub-Inspector of Police, All Women Police Station, Puducherry and quash all further proceedings.

For Petitioner : Mr. Prakash Adiapadam

For Respondent : Mr. Balamurugane, for R1
Public Prosecutor (Pondicherry)
R2-NA

O R D E R

This petition is filed to call for the records relating to FIR in Crime No.2 of 2015 dated 03.03.2015 on the file of the first respondent and to quash the same.

2.It is seen from the complaint allegations that the complainant/second respondent is a widow and living with three children. There exists a joint family property at Thindivanam, in which her husband has a share. In order to avoid the claim in the joint family properties, petitioner had made arrangement for the complainant and children to stay with her. All of them were maintained by petitioner. During the stay, the Sridhana articulated and 5 sovereigns of Jewels gifted to the complainant at



the time of her marriage were entrusted to the petitioner. Complainant came to know that petitioner had sold a joint family property without the consent and knowledge of the complainant and by committing forgery. When it was questioned by the complainant on 02.12.2014, petitioner had thrown the complainant out of the house by using physical force along with her three children. It was informed to her father and brother, who came to Pondicheery and rescued the complainant and three children. Then, petitioner allowed her to take dresses and other household things, but refused to give 5 sovereigns of jewels. Since then complainant is living at the mercy of father and brother, complainant had given oral complaint on 06.12.2014 for recovery of gold jewels. Petitioner gave an evasive reply and informed that she would not return the jewels. Then the first respondent orally informed the complainant that the complaint would not be entertained. Therefore, she sent complaints to Higher officials and then filed this complaint before the jurisdictional Magistrate which was forwarded under Section 156(3) of Cr.P.C., and FIR registered.

3.Learned counsel for the petitioner submitted that the allegations per se would show that the issue involved between the parties are only civil dispute. The complaint is not specific about when the alleged offences had taken place, that is when the jewelery and Sridhana properties were entrusted, when it was demanded and refused what is the mode of criminal force employed etc. Civil dispute should not be converted as a criminal case. Therefore, he prayed for quashing of the FIR.

4.Learned counsel appearing for the first respondent opposed the petition. There is no representation for the second respondent.

5.Considered the rival submission and perused the records.

6.As narrates above, the complaint shows a mixture of civil and criminal dispute giving cause for civil and criminal action. We are now concerned in this case as to whether there is any prima-facie case available for proceeding further with the investigation.

7.The proposition with regard to quashing of the FIR is very well settled in the case of State of Haryana and others Vs. Bhajan lal and others reported in 1992 Supp(1) SCC 335. The relevant portion of the judgment is extracted hereunder:

"102. In the backdrop of the interpretation of the various relevant



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provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases 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 guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(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 FIR 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 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



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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.

103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice."

8. If that yardstick is adopted, this Court is of the considered view that there are allegations made against the petitioner, who is the accused in this case that she had failed to return jewels of the second respondent which was entrusted to her, that she committed forgery for selling the joint family



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property and that she uses physical force against the second respondent. The truth or falsity of the allegations made in the complaint have to be investigated by the police. This Court sitting under 482 of Cr.P.C., cannot investigate into the veracity or falsity of the allegations made in the complaint.

9. Taking the allegations as true on its face value, this Court is of the considered view that allegations need to be investigated by the police, for it to file a final report, positive or negative. In this view of the matter, this petition is dismissed. Consequently, connected miscellaneous petition is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

AT
To

1. The Sub-Inspector of Police,
All Women Police Station,
Puducherry.
2. The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.17291 of 2016 and
Cr1.M.P.No.8272 of 2016

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srg 19/04/2022