



Crl.O.P No.3855 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2022

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.3855 of 2021
and Crl.M.P. Nos.2298 & 2296 of 2021

1. Ganesan
2. Usha
3. Rajamani
4. Arun
5. Naveen
6. Praveen @ Prem

... Petitioners

Vs.

1. The State represented by The Inspector of Police,
Kunnam Police Station,
Perambalur District.
Cr.No.1292/2020

2. Natarajan

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, praying to call for the records relating to the First Information Report registered as Cr. No.1292 of 2020 on the file of the Inspector of Police, Kunnam Police Station / first respondent herein and quash the same.

For Petitioners : No appearance

For Respondent-1 : Mr.A.Damodaran
Additional Public Prosecutor

2 : Mr.C.Prabakaran



ORDER

WEB COPY This Criminal Original Petition has been filed to call for the records relating to the First Information Report registered as Cr. No.1292 of 2020 on the file of the Inspector of Police, Kunnam Police Station / first respondent herein and quash the same.

2. No representation for the petitioner despite the matter is posted under the caption “For dismissal”.

3. The case of the prosecution is that in view of the previous enmity between the second respondent / *de facto* complainant and the petitioners, on 04.11.2020 at about 11 a.m., when the second respondent was alone at her house, the first accused came in 'Tata Ace' vehicle with building materials. When the second respondent objected for putting up construction in the site, the petitioners started to abuse the second respondent in filthy language and assaulted the second respondent and her son. They also threatened him by showing knife. In the said occurrence, the *de facto* complainant and his son got injured and AR entry would also show the same.



4. It is seen from the grounds of the petition it is stated that the complaint given by the *de facto* complainant is an abuse of process of law and the complaint itself is false; by making use of the influence of the *de facto* complainant with the respondent police, the case got registered.

5. This is not a case which has been registered on bald allegations made in the complaint. The *de facto* complainant has given a detailed compliant in which the overt act of each of the accused has been mentioned. The previous motive is also said to be the reason for occurrence. In fact the *de facto* complainant and her son got injured and they have been taking treatment in the hospital. Since the materials available on record is sufficient to make out a case against the accused, it cannot be said that the compliant is not maintainable.

5. At the threshold stage itself this Court cannot deal with the merits of the case by doing any roving enquiry. In this context, it is relevant to refer the judgment of the Hon'ble Supreme Court held in ***Neeharika Infrastructure Pvt. Ltd Vs. State of Maharastra and others*** reported in **(2021 SCC OnLine SC 315)**. In the said case, it is held as under:



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i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence;

ii) Courts would not thwart any investigation into the cognizable offences;

iii) 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;

iv) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the 'rarest of rare cases (not to be confused with the formation in the context of death penalty).

v) While examining an FIR / complaint, quashing of which is sought, the Court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR / complaint;

vi) Criminal proceedings ought not to be scuttled at the initial stage;

vii) Quashing of a complaint / FIR should be an exception rather than an ordinary rule..."

6. In the case in hand, *prima facie* materials are seen to be available to make out a case against the petitioners. In view of the same, this Criminal Original Petition is liable to be dismissed.

7. In the result, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes/No
Speaking Order : Yes / No
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To

- 1.The Inspector of Police,
Kunnam Police Station,
Perambalur District.
2. The Public Prosecutor
Madras High Court.



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R.N.MANJULA, J.,

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