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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2022

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P. No.8107 of 2022
and
Crl.M.P.No.4726 of 2022

Natarajan ...Petitioner

Vs.

1. The Inspector of Police
Chidambaram Town Police Station
Cuddalore District
Crime No.1161 of 2021

...Respondent/Complainant

2.Suryakala

...Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records pertaining to F.I.R. registered as Crime No.1161 of 2021 on the file of the 1st respondent police and quash the same.

For Petitioner : Mr.S.Sivakumar

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

For Respondent-2 : Mr.B.Mahendra Naidu

ORDER

This Criminal Original Petition has been filed to quash the F.I.R. registered as Crime No.1161 of 2021 on the file of the 1st respondent police for the offences under Sections 294 (b), 506(2) and 420 IPC.

2. The learned counsel for the petitioner submitted that this FIR is nothing but abuse of process of law and initiated with malafide intention only in order defeat the proceedings initiated against the 2nd respondent/defacto complainant in STC No.370 of 2021 for the offence under Section 138 Negotiable Instruments Act on the file of the Judicial Magistrate-II, Chidambaram. The further contention is that in order to threaten the petitioner to withdraw the said complaint, this FIR has been registered later and hence, he seeks to quash the same.



3. The learned counsel for the 2nd respondent/defacto complainant submitted that the proceedings under Section 138 Negotiable Instruments Act is a different one whereas, this FIR is a result of threat made by the petitioner. Therefore, it requires detailed investigation and the case has to proceed further.

4. Heard Mr.S.Sivakumar, the learned counsel for the petitioner, Mr.B.Mahendra Naidu, the learned counsel for the 2nd respondent/defacto complainant and A.Gokulakrishnan, learned Additional Public Prosecutor appearing for the respondent police.

5. Normally during investigation, when the FIR discloses cognizable offence, the Court would not interfere by exercising its power under Section 482 Cr.P.C. At the same time, when the Court finds that the FIR itself is a result of motive and filed with malafide intention to defeat some other proceedings, the Court is not a powerless to prevent such abuse of process of law. The Hon'ble Apex Court in a decision in the State of Haryana and Others Vs. Bhajan Lal and Others reported in 1992 Supp(1) Supreme Court Cases 335 has held as follows;

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 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 as



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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 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.

In the above circumstances, the Court can very well interfere with the FIR.

6. Admittedly, the proceedings under Section 138 Negotiable Instruments Act has been initiated against the 2nd respondent/defacto complainant which has been taken on file in STC No.370 of 2021 on the file of the learned Judicial Magistrate-II, Chidambaram and after 3 months, the present FIR came to be filed. The very allegation in the FIR itself indicates that the same has been pressed into service only to non suit the proceedings initiated under Section 138 Negotiable Instruments Act. In fact, the set of facts in the criminal case in the FIR as if the subject matter of the cheque in STC No.370 of 2021 was stolen and misused by the accused/the present petitioner. The entire allegation as to the threat or intimidation appears with element of artificiality attached. The 2nd respondent/defacto complainant is not a rustic woman as she is holding the post of Executive Manager in the Electricity Department. Therefore, when the very allegation is pressed into service and the proceedings are attended with malafidness, allowing such proceeding would be nothing but abuse of process of law. Therefore, this Court is inclined to quash the FIR.



7. Accordingly, this Criminal Original Petition is allowed. The FIR registered as Crime No.1161 of 2021 on the file of the 1st respondent police is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

ksa-2/anu

To

1. The Inspector of Police
Chidambaram Town Police Station
Cuddalore District

2. The Public Prosecutor
High Court, Madras.

+lcc to Mr.B.Mahendra Naidu, Advocate, S.R.No.33654
+lcc to Mr.K.T.S.Sivakumar, Advocate, S.R.No.34094

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SMI (CO)
SB(22/06/2022)