



Crl.O.P No.8220 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.8220 of 2021
and Crl.M.P. No.5439 of 2021

K.Ranjith Baba

... Petitioner

Vs.

1. The State rep. by
Inspector of Police,
E9, Thalambur Police Station,
Navallur,
Chennai – 603 103.

2. Palani

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, praying to call for all the records pertaining to F.I.R. in Cr.No.71/2021 dated 24.03.2021 on the file of the first respondent police and to quash the same.

For Petitioner : No appearance

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

ORDER

This Criminal Original Petition has been filed to call for the records pertaining to F.I.R. in Cr.No.71/2021 dated 24.03.2021 on the file of the



first respondent police and to quash the same.

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2. The case of the prosecution is that the second respondent / *de facto* complainant is rendering home keeping services under the name and style M/s. Jayam Facility Services. The petitioner is the Managing Director of M/s. OMR Food Street who has entered into an agreement with the second respondent for providing house keeping services between May 2018 and May 2019. The petitioner is liable to pay a sum of Rs.44,71,176/- towards the work order dated 21.05.2018 and Rs.2,52,671/- towards the work order 01.06.2019. The second respondent has filed a complaint before the Judicial Magistrate I, Chengalpattu and it has been forwarded to the first respondent for enquiry. After enquiry, a case has been registered in Cr. No.71 of 2021 under Section 420 IPC on the file of the Judicial Magistrate No.I, Chengalpattu.

3. The primary ground that has been taken by the petitioner is that the dispute is purely based on business transaction between the petitioner company and the second respondent and that the civil dispute has been given with a criminal colour.



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4. On a perusal of the records and the averments in the complaint it is seen that in view of the agreement between the second respondent and the petitioner, the second respondent has rendered house keeping service for the petitioner's company. The dues as alleged by the second respondent in completing the work orders were not settled by the petitioner. The complaint has been filed only on that basis of business transaction between the second respondent and the petitioner.

5. The second respondent had knowingly entered into the written agreement with the petitioner's company. When the party violates the terms of contract, the other party would get a contractual remedy by way of filing a suit for recovery of money. Instead of approaching the civil Court to get appropriate remedy, criminal complaint has been given. Criminal law was set in motion for a civil case which is not permissible in law. Hence, I feel it is an appropriate case where the Court has to exercise its jurisdiction to quash the FIR under Section 482 Cr.P.C.

6. In order to quash the proceedings under Section 482 of Cr.P.C.,



some of the conditions as stated by the Hon'ble Supreme Court in

Parbatbhai Aahir Vs. State of Gujarat [AIR 2017 SC 4843] should be

present. In the said case in Paragraph 15, it is held as under:-

"15.The Broad Principles which emerge from the precedents on the subject, may be summarised in the following propositions:-

(i) Section 482 Cr.P.C preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inherent in the High Court.

(ii) The invocation of the jurisdiction of the High Court to quash a first information report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power.

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised (i) to secure the ends of justice, or (ii) to prevent an abuse of the process of any court.



(v) *the decision as to whether a complaint or first information report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulate.*

(vi) *In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences.*

(vii) *As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.*

(viii) *Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.*

(ix) *In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a*



criminal proceeding would cause oppression and prejudice; and
(x) There is yet an exception to the principle set out in Propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the State have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

7. Since the materials available on record would only show that the dispute between the petitioner and the second respondent is civil in nature, the FIR is liable to be quashed.

8. In view of the above, this Criminal Original Petition is allowed and the case in Cr.No.71 of 2021 dated 24.03.2021 on the file of the first respondent police is hereby quashed. Consequently, connected miscellaneous petition is closed.

21.09.2022

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

1. The Inspector of Police,
E9, Thalambur Police Station,
Navallur,
Chennai – 603 103.

2. The Public Prosecutor
Madras High Court.



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R.N.MANJULA, J.,

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