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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07/06/2022

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.11194 OF 2022

AND

CRL.M.P.NO.6467 OF 2022

1. Balasubramanian

2. Jothi

... Petitioners

.Vs.

1. The State,
Rep. By The Inspector of Police,
District Crime Branch (DCRB),
Ariyalur,
Ariyalur District.

2. Alamelu

... Respondents

PRAYER:-

Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records in Crime No.2 of 2021 pending on the file of the Inspector of Police, District Crime Branch, Ariyalur District and quash the same.

For Petitioners : Mr.K.Balu

For respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor
For R1

O R D E R

This Criminal Original Petition has been filed to quash the F.I.R in Crime No.2 of 2021, filed under Sections 294 (b), 323, 417 and 420 of the Indian Penal Code, pending on the file of the Inspector of Police, District Crime Branch, Ariyalur District.



2. Heard Mr.K.Balu, learned counsel for the petitioners and Mr.A.Gokulakrishnan, learned Additional Public Prosecutor for the first respondent.

3. Learned counsel appearing for the petitioners submitted that the allegation has been pressed into service, only in order to force the purchaser to resell the property and the entire allegations are highly motivated and hence the entire prosecution in First Information Report has to be quashed.

4. Perused the entire First Information Report.

5. The main allegation in the First Information Report indicate that the defacto complainant has sold the property and registered the property in favour of the accused. The allegation further indicates that the above sale is only pursuant to the loan transaction. Therefore, they demanded re-convey of the property. At this stage, the accused used unparliamentary words, thereby First Information Report has been filed. The very allegation itself indicate that the allegation was pressed into service in a civil transaction.

6. Having sold the property and registered in favour of the accused, the defacto complainant has tried to take advantage of the criminal case and given a colour of a criminal case to force the purchaser to re-convey the property. The very allegation prima facie indicate that this First Information Report has been filed with a motive to re-convey the property.

7. It is to be noted that while exercising the power under Section 482 of the Code of Criminal Procedure, Courts are normally slow in quashing the complaint or First Information Report, if the allegation prima facie constitute any offence or make out the case against the accused. But at the same time, the Court finds that such allegations are pressed into service only with a malafide intention or the complaint has been filed maliciously instituted with an ulterior motive, such complaint can be quashed at the very inception to prevent an abuse of process of law.

8. In 1992 SUPP (1) SUPREME COURT CASES - 335 STATE OF HARYANA AND OTHERS Vs. BHAJAN LAL AND OTHERS, the Hon'ble Apex Court has set out the following guidelines for quashing the complaint.

(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.



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(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.

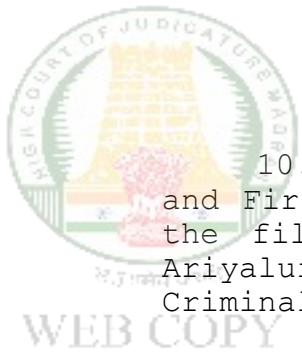
(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(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."

9. With the above parameters, considering the nature of allegation, since it is purely a civil dispute, this Court is inclined to quash the First Information Report in Crime No.2 of 2021, pending on the file of the Inspector of Police, District Crime Branch, Ariyalur District.



10. Accordingly, this Criminal Original Petition is allowed and First Information Report in Crime No.2 of 2021, pending on the file of the Inspector of Police, District Crime Branch, Ariyalur District, is hereby quashed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mvs

To

1. The Inspector of Police,
District Crime Branch (DCRB),
Ariyalur,
Ariyalur District.
2. The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.K.Balu, Advocate, S.R.No.33974

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CRL.M.P.NO.6467 OF 2022

GP(CO)
PBS/20/06/2022