



*Crl.O.P.No.15159 of 2021
and Crl.MP.Nos.8279 & 8283 of 2021*

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2022

CORAM:

THE HONOURABLE Ms.JUSTICE **R.N.MANJULA**

Crl.O.P.No.15159 of 2021
and
Crl.MP.Nos.8279 & 8283 of 2021

1. L.B.Senthil Kumar
2. Lakshmi Senthil Kumar

...Petitioners

-Vs-

1. The State
Rep. by Inspector of Police,
CCB-I, Office of the Commissioner of Police,
Greater Chennai Police,
No.132, EVK Sampath Road,
Vepery, Chennai-600 007.

2. R.Uma Maheswari

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, praying to call for the records pertaining to the FIR No.145 of 2021 on the file of the Inspector of Police, CCB-I, Office of the Commissioner of Police, Greater Chennai Police, No.132, EVK Sampath Road, Vepery, Chennai-600 007 and quash the same.



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For Petitioners : Mr.N.S.Thanu Madhan

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor for R1
Mr.D.Ferdinand for R2

ORDER

This Criminal Original Petition has been preferred to call for the records pertaining to the FIR No.145 of 2021 on the file of the first respondent Police and quash the same as illegal.

2. Heard the learned counsel for the petitioner, the learned Additional Public Prosecutor appearing for the first respondent and the learned counsel for the second respondent. Perused the entire records available on record.

3. The learned counsel for the petitioners submitted that a dispute between the landlord and tenant has been exaggerated and given a criminal colour. The second respondent, who is the tenant of the first petitioner, had taken the premises belonging to the petitioners on rent for the purpose of running a hotel. Since he did not possess a valid licence, the second respondent could not conduct hotel there and hence, the amount deposited by



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him was returned to the second respondent. But he continued to give various criminal complaints by making different allegations just in order to harass the petitioner. Since there is no *prima facie* material available on record, the FIR against the petitioner is liable to be quashed.

4. The learned Additional Public Prosecutor appearing for the first respondent submitted that the materials available on record would prove the *prima facie* case and the investigation is still pending.

5. The learned counsel for the second respondent submitted that it is not a case as simple as that of a dispute between the landlord and tenant; the petitioners have suppressed about the various Court orders passed against them in respect of the premises and they had misled the second respondent and got a huge amount from him; whenever he asked the petitioner to return the money, he was threatened and assaulted; since the lot of facts have to be investigated, this Criminal Original Petition should be dismissed.

6. On perusal of the records, especially from the averments made in the complaint, it is seen that the second respondent had entered into a



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Tenancy Agreement with the first petitioner for the purpose of running a hotel. However, he could not run the hotel successfully because of the various adverse Court orders made against him in OA.No.1144 of 2017, C.S.No.889 of 2017 and WP.No.29570 of 2017. When the said orders of the Courts were violated, the contempt proceedings have been initiated against the first petitioner in Cont.P.No.2996 of 2019. The second respondent made various allegations in which it is stated that orders that have been passed against the first petitioner ought to have been revealed to him before prompting him to enter into a Tenancy agreement. So it is not a simple case of a dispute between the landlord and tenant, but the overtact on the part of the petitioners would show that there is a case of cheating is made out.

7. The allegations of the second respondent is that only because he was influenced by the petitioners that the premises is fit for conducting hotel business, he gave huge sum of money to them and sustained loss. Hence, the above allegations made by the second respondent coupled with the allegations about the threat caused to him would show that it is not a case to be quashed by invoking Section 482 Cr.P.C. Since many facts have to be



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unearthed, the prosecution should be allowed to do a detailed investigation and file a final report.

8. In order to quash the proceedings under Section 482 of Cr.P.C., the case should be fit into the principles laid by the Hon'ble Supreme Court in ***Parbatbhai Aahir Vs. State of Gujarat [AIR 2017 SC 4843]***. In the said case in Paragraph 15, it has 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.



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(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



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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."



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9. The instant case does not fit into the parameters for which the powers of this Court should be exercised under Section 482 of Cr.P.C.

10. In view of the aforesaid reasons, this Criminal Original Petition is dismissed. The first respondent is directed to complete the investigation and file a final report within a period of six weeks. Consequently, connected Miscellaneous Petitions are also closed.

19.09.2022

Index : Yes/No

Speaking/Non Speaking order
kmi

To

1. The Inspector of Police,
CCB-I, Office of the Commissioner of Police,
Greater Chennai Police, No.132, EVK Sampath Road,
Vepery, Chennai-600 007.
2. The Public Prosecutor,
High Court, Madras.

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