



*Crl.O.P.No.16947 of 2021
and Crl.MP.No.9240 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.16947 of 2021

and

Crl.MP.No.9240 of 2021

1. P.Danasekar
2. Mrs.Kokila
3. Mrs.Rajeshwari @ Manjula
4. Jayakumar

...Petitioners

-Vs-

1. The State
Rep. by Inspector of Police,
N1 Royapuram Police Station,
Royapuram, Chennai-600 013.

2. P.Sundaramoorthy

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, praying to call for the records in Crime No.142 of 2021 dated 15.04.2021 on the file of the first respondent, N1 Royapuram Police Station, Royapuram, Chennai, registered against these petitioners herein for the alleged offences under Sections 294(b), 323 and 324 of the Indian Penal Code and quash the same.



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For Petitioners : Mr.J.Vijayshankar

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor for R1
Mr.M.Jayakumar for R2

ORDER

This Criminal Original Petition has been preferred to call for the records pertaining to the FIR in Crime No.142 of 2021 on the file of the first respondent Police and quash the same as illegal.

2. The learned counsel for the petitioners submitted that the *de facto* complainant and the petitioners 1 to 3 are siblings. There was an earlier occurrence took place on 30.10.2019; the *de facto* complainant quarreled with his mother by claiming property, during the course of arguments, the defacto complainant became very angry and he attacked his mother with plastic pipes and caused injury. When the matter was reported to the police, the police advised the parties to keep peace. Considering the close relationship between the petitioners and the second respondent, no serious action was taken by the police during that time. But the second respondent has once again given a complaint to the Court and got directions to register the FIR under Section 153(3) of Cr.P.C. The allegations made in the



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complaint are all false and motivating. No *prima facie* material available to make out the case against the accused and hence, the FIR is liable to be quashed.

3. 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.

4. The learned counsel for the second respondent submitted that the averments seen in the complaint would show the overtact against each of the accused and there are materials available to sustain the case against the petitioners for committing the offence under Sections 294(b), 323 & 324 IPC.

5. On perusal of the records, it is seen that a detailed complaint has been given by the second respondent, wherein he has stated about the occurrence that had taken place on 30.10.2019. It is seen from the complaint that there are several other similar occurrences have already been taken into consideration and the investigation also pending. Subsequent to the occurrence, the second respondent had taken treatment in the hospital for the injuries sustained by him and the wound certificate has also been given by



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the Doctor, who treated the second respondent. The materials available on record are sufficient enough to make out the *prima facie* case against the accused for the offences under Sections 294(b), 323 & 324 IPC. This is not a case where the Court can exercise its power by presuming that there is no *prima facie* materials. A detailed complaint with specific allegations against each of the accused coupled with the wound certificate issued by the Doctor and the injuries found to be present on the body of the second respondent would serve as sufficient material to make out the case. In order to exercise the powers under Section 482 of Cr.P.C. to quash the FIR, the case should fit into the principles laid down 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 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



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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



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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



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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."

6. In the case in hand, there are *prima facie* materials available on record and hence, it is an appropriate case where the first respondent should be allowed to continue the investigation and file a final report. Since the case does not fit in to the above proposition, the case has to be left to the investigation of the first respondent.

7. In the result, the Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

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Index : Yes/No

Speaking/Non Speaking order
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R.N.MANJULA, J,

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To

1. The Inspector of Police,
N1 Royapuram Police Station,
Royapuram, Chennai-600 013.
2. The Public Prosecutor,
High Court, Madras.

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