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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.09.2022**

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

Crl.O.P.No.6516 of 2021
and Crl.M.P.No.4325 of 2021

1. Akbar Sheriff
2. Abul Rafeeq
3. Veerasamy
4. K.Bhavya ...Petitioners

Vs.

1.The State by
Sub-Inspector of Police,
Walajapet Police station,
Ranipet District.
(Crime No.46 of 2021)

2. Vennila ...Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the entire records in pursuant to the FIR in Crime No.46 of 2021, dated 24.02.2021 pending on the file of the 1st respondent police and quash the same.

For Petitioner : Mr.T.P.Prabakaran

For R1 : Mr.A.Damodaran
Additional Public Prosecutor for R1

For R2 : No appearance

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O R D E R

The Criminal Original Petition has been preferred seeking to call for the records in Crime No.46 of 2021 on the file of the 1st respondent Police and to quash the same as it is illegal.

2. The case of the prosecution is that due to the civil dispute pending between the complainant and the accused, the accused along with four other persons have created false documents in respect of the property which did not belong to them. On verification, the Deputy Registrar declared that the said documents are false and passed an order, recommending the competent authority to initiate criminal proceedings against the persons who have created the false documents. On 22.02.2021, the accused along with some other henchmen trespassed into the land of the complainant and destroyed the fencing and had stolen the barbed wire materials worth about Rs.4 lakhs. On that allegations, a case has been registered in Crime No.46 of 2021 for the offences under Section 427, 468, 471 and 420 of I.P.C.,

3. Heard Mr.T.P.Prabakaran, learned counsel for the petitioner and

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Mr.A.Damodaran, learned Additional Public Prosecutor appearing for the first respondent.

4. The learned counsel for the petitioners would submit that the civil dispute has been given with a criminal colour and that the first respondent Police ought not to have registered the case for the matter which is civil in nature.

5. On perusal of the materials produced before this Court, no doubt it is seen that there are many civil disputes pending between the parties. The allegations made by the complainant would show that the creation of false documents are not only due to the civil disputes, but also for the subsequent occurrence. It is submitted by the learned counsel for the petitioners that the order of the Deputy Registrar has been passed subsequent to the filing of the suit. But, the recommendation of the Deputy Registrar to initiate criminal proceeding against the accused persons cannot be omitted to be taken into consideration. No doubt, the civil disputes can be amicably settled. Though there is dispute with regard to the title, what kind of documents have been

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created and whether the intention of creating documents was to play fraud upon the complaint and to grab her properties etc., can come to light only through a thorough investigation. Apart from the above allegations, the complaint has got other ingredients to make out a case for trespass and theft. The materials are sufficient enough to make out a case for the offences under Sections 427, 468, 472 and 420 of I.P.C.

6. The Court cannot conduct a roving enquiry at the threshold itself. It is for the prosecution to conduct a thorough investigation and unravel the truth. In order to quash the proceedings under Section 482 of Cr.P.C., there should be some specific ground as laid down by the Hon'ble Supreme Court reported in ***AIR 2017 SC 4843*** in ***Parbatbhai Aahir*** *Vs.* ***State of Gujarat.*** In the said case, 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*

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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

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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

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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. In the instant case, the averments in the complaint themselves serve as *prima facie* material and hence, the 1st respondent should be

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allowed to proceed the investigation. Since the matter does not fall under the principles envisaged by the Hon'ble Supreme Court in the above case, it is liable to be dismissed.

8. Accordingly, this Criminal Original Petition stands dismissed. However, the 1st respondent is directed to complete the investigation within a period of four weeks from the date of receipt of a copy of this order and to file a final report. Consequently, connected miscellaneous petition is closed.

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Index:yes/No
Speaking order / Non speaking order

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To

1.The Sub-Inspector of Police,
Walajapet Police station,
Ranipet District.

2. The Public Prosecutor,
Madras High Court,
Chennai.

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