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Crl.O.P.No.14908 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2022

CORAM:

THE HON'BLE Ms.JUSTICE **R.N.MANJULA**

Crl.O.P.No.14908 of 2021 and
Crl.M.P.No.8176 of 2021

1.Pradeep
2.Prakash
3.Mohansingh
4.Latha

... Petitioners

Vs.

State Rep by:
The Inspector of Police,
Kavandipadi Police Station,
Erode District.
(Crime No.250 of 2019)

2.Reena

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the entire records pursuant to the FIR in Crime No.250 of 2019 on the file of the respondent police and quash the same by allowing this criminal original petition so far as the petitioners are concerned.

For Petitioners : Mr.N.Chinnaraj

For Respondents : Mr.A.Damodaran, APP



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ORDER

This Criminal Original Petition has been preferred to call for the records pursuant to the FIR in Crime No.250 of 2019 on the file of the respondent police and quash the same so far as the petitioners are concerned.

2. Heard Mr.N.Chinnaraj, learned counsel for the petitioners and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for the first respondent.

3. Mr.N.Chinnaraj, learned counsel for the petitioners submitted that the defacto complainant is a tenant under the accused A2 to A5; the first accused is the husband of the defacto complainant; on 26.05.2019, there was some family dispute between the defacto complainant and the first accused; the mother and the sister of the defacto complainant pacified the couple and after settling the dispute, they started to return; when the defacto complainant came to the gate to send them off, the accused 2 to 5 came there and attacked the defacto complainant with iron rod and also abused her in obscene language.



4. Perusal of the complaint would show that it has specific allegations against each of the accused and the allegations are serious in nature. It is not a case where the materials are insufficient to disclose or make out a cognizable offence against the petitioners. In order to quash the FIR by exercising the powers under Section 482 of Cr.P.C., it should be fit into any of the seven golden principles laid down in the case of ***State of Haryana and Others Vs. Bhajan Lal and Others, reported in 1992 Supp (1) Supreme Court Cases 335***, as shown under:

“(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.

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R 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



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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”



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5. Since the averments made in the complaint are not seen to be imaginary and there are sufficient materials available to make out a case against the accused for the offence under Sections 147, 148, 294(a), 324, 506(2) of I.P.C and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, the investigation should be allowed to go. Since the case does not fit into the above propositions laid down by the Hon'ble Supreme Court in the case of *State of Haryana and Others Vs. Bhajan Lal and Others*, the case has to be left to the investigation of the first respondent. Hence, the Criminal Original Petition filed by the petitioners under Section 482 of Cr.P.C., to quash the FIR is liable to be dismissed.

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

Index: Yes/No
Speaking / Non Speaking Order
gsk

15.09.2022

To

1.The Inspector of Police,
Kavandipadi Police Station,



Crl.O.P.No.14908 of 2021

Erode District.

2.The Public Prosecutor,
High Court of Madras.

R.N.MANJULA, J.

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