



CRL.O.P.No.22597 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2022

CORAM:

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

Crl.O.P.No.22597 of 2019

and

Crl.MP.No.11788 of 2019

1.C.Muthuraman

2.C.Lakshmanan

.. Petitioners/Accused 1&2

Versus

1.State rep by

The Inspector of Police,

V-1 Villivakkam Police Station,

Chennai 600 049

Crime No.631 of 2018.

... 1st Respondents / complainant

2.Killiyammal

... 2nd Respondent /*Defacto* complainant.

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records pertaining to the First Information Report in Crime No.631/2018 dated 19.06.2018 on the 1st respondent and quash the same.

For Petitioners : Mr.R.Chakkaravarthy

For Respondent-1 : Mr.A.Gopinath
Government Advocate



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For Respondent-2 : No appearance

ORDER

This Criminal original petition has been filed to quash the FIR in Crime No.631 of 2018 on the file of the first respondent police.

2. The petitioners are arrayed as first and second accused in Cr.No.631/2018. The case of the prosecution is that on 18.06.2018 at about 8.00 pm when the *defacto* complainant and her son were coming near SITCO Nagar, 1st main road, Villiavakkam, the accused 1 and 2 came in a motorcycle and they had assaulted the *defacto* complainant and his son and they also threatened them with dire consequences.

3.The learned counsel for the petitioners submitted that the second accused who is the brother of the first accused is a physically challenged person and it is unbelievable that he had assaulted the *defacto* complainant and her son in the manner stated by them; since there are civil disputes between the *defacto* complainant and the petitioners and they were adjacent land owners a criminal colour was given to a civil dispute.

4.The learned Government Advocate(Crl.Side) appearing for the first respondent police submitted that it is mentioned in the First Information



Report the 2nd accused was driving his three wheeler and he hit the three wheeler against the *defacto* complainant and his son; and the second petitioner had used his walking stick to assault the *defacto* complainant and his son; since there are sufficient allegations, prima facie case is made out.

5. There are certain records produced by the petitioner to show that there is a civil suit pending between the 1st accused and the *defacto* complainant in OS.No.2541 of 2018. It is seen from the averments in the complaint that on 18.06.2018 at about 5.00pm, the *defacto* complainant and his son were returning from Maduravayal after attending condolence. While they were coming together to their house, they were intercepted by the daughter-in-law of the *defacto* complainant and thereafter they walked together; when the 1st accused noticed a new shop has come up near the *defacto* complainant's shop he just enquired and they came to know that it was a shop of the sister of the wife of the second accused. After knowing that they had made such enquiries, the wife of the 1st accused came and stood before the house of the *defacto* complainant and was shouting. In view of that the *defacto* complainant and her son were about to go to the police station to give a complaint, the occurrence had taken place on their way.



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6. Just because the *defacto* complainant had made enquiries about the new shop that has come up near his shop, the wife of the 1st accused came to the house and shouted at them. The motive stated is unbelievable. The occurrence is said to have taken place only when the *defacto* complainant and his son were proceeding to the police station to lodge some other complaint.

7. The contents of the proposed complaint and it is still not known and the reason which prompted the *defacto* complainant and his son to walk near to the place of occurrence is also not made clear. In the complaint itself, it is stated that the second accused is physically challenged, under such circumstances, it is unbelievable that the second accused had joined with the first accused and assaulted the *defacto* complainant along with his son with steel stick and boots.

8. The motive for the occurrence is so weak and it is unbelievable that the occurrence of this magnitude would have occurred for merely enquiry about a new shop came up in that area. The allegations are seen to be improbable and they were not substantiated with verifiable materials. In view of the background of pending civil dispute between the petitioners and the *defacto* complainant, the possibility of giving criminal colour is possible.



9. In this regard, it is relevant to refer the judgment of the Hon'ble

Supreme Court held in ***STATE OF HARYANA VS. BHAJANLAL [1992 SUPP (1) SCC 335]***.

"The following categories can be stated by way of illustration wherein the extra-ordinary power under [Article 226](#) or the inherent powers under [Section 482](#) of the Code of Criminal Procedure can be exercised by the High Court either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

(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



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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 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."

10. The principles laid down in the said case is squarely applicable to the present case where there is no reliable material available against the petitioners. Hence, I feel it is an appropriate case where this Court should invoke its powers under Section 482 Cr.P.C., to quash the proceedings against these petitioners.



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R.N.MANJULA, J.,

jrs

In the result, this Criminal Original Petition stands **allowed**. The proceeding as against Accused 1 & 2 in Cr.No.631 of 2018 on the file of the Inspector of Police, V-1 Villivakkam Police Station, is quashed. Consequently, connected miscellaneous petition is closed.

13.12.2022

Index: Yes/No
jrs

To:

- 1.The e Inspector of Police,
V-1 Villivakkam Police Station,
Chennai.
- 2.The Public Prosecutor,
High Court, Madras.

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and
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