



CrI.O.P.No.22553 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2022

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

CrI.O.P.No.22553 of 2021
and CrI.M.P.No.12265 of 2021

1. K.Bhuvaneshwari
2. K.Kumuthini
3. Srinivasan

...Petitioners

Vs.

- 1.The State represented by its
Inspector of Police,
Thudiyalur PS,
Coimbatore District.

2. Jayasree
- ...Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the FIR No.166 of 2021 on the file of the Thudialur Police Station, Coimbatore District and quash the same as far as the petitioners are concerned.

For Petitioners : Mr.T.S.Baskaran

For 1st Respondent : Mr.A.Damodaran
Additional Public Prosecutor

For 2nd Respondent : Mr.A.P.Balaji for



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Mr.B.M.Subaiah
ORDER

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This Criminal Original Petition is filed to call for the records pertaining to the FIR in Crime No.166 of 2021 on the file of the 1st respondent viz., the Inspector of Police, Thudiyalur PS, Coimbatore District and quash the same.

2. The case of the prosecution is that due to the previous enmity between the family of the defacto complainant and the accused, the accused are frequently harassing the defacto complainant and her family members. In this connection, the 2nd respondent had already given a complaint. Again on 06.11.2020, at about 5 p.m, the accused along with others had demolished the shop run by the defaco complainant by using JCB and they also assaulted the 2nd respondent/ defacto complainant and her family members and abused them in filthy language. Due to the said occurrence, the family of the 2nd respondent got injured. Even while they were taken to hospital in Ambulance for treatment, some of the accused prevented the ambulance. On the above allegations, the case has been registered in Crime No.166 of 2021 for the offences under Sections 448, 294 (b), 323, 379, 506



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(2) of IPC r/w. Section 3 of the Tamilnadu Open Places (Prevention of Disfigurement Act), 1959.

3. Heard Mr.T.S.Baskaran, learned counsel for the petitioners, Mr.A.Damodaran, learned Additional Public Prosecutor appearing for the 1st respondent and Mr.A.P.Balaji, learned counsel appearing on behalf of Mr.B.M.Subaiah, counsel for the 2nd respondent.

4. The learned counsel for the petitioners submitted that the mother of the defacto complainant approached the 1st petitioner to take her property which consists of house and a shop on lease. Accordingly, they entered into a Lease Agreement dated 20.08.2020; however, possession was not handed over to her since the building requires renovation; but the family members of the defacto complainant tried to take possession of the property by force; in this regard, there is a civil dispute pending between the parties in O.S.No.945 of 2020 before the I Additional District Munsif, Coimbatore and the civil dispute is now given with criminal colour because of the inability of the 2nd respondent to get any interim order in the suit.



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5. On perusal of FIR, it is seen that the 2nd respondent is in possession of the shop which was let out to her by the petitioners and the petitioners tried to vacate her illegally on his failure to give the enhanced rent, demanded by the petitioners. It is also seen that the Civil dispute is not the cause for the criminal complaint as alleged by the petitioners. In fact in the complaint itself, the defacto complainant had mentioned about the pendency of the civil suit in O.S.No.945 of 2020 on the file of the I Additional District Munsif, Coimbatore. The grievance of the defacto complainant is that on 02.10.2020 itself they were threatened by the petitioners and their henchmen and once again on 03.10.2020, they were abused by some of the accused. In this regard, an earlier complaint has been given on 03.10.2020 but the same was treated as a petition and no FIR has been registered.

6.The present FIR pertains to an occurrence said to have taken place on 06.11.2020. The allegations are that while the family members of the 2nd respondent were taken to the hospital in the ambulance, the accused prevented the vehicle and damaged and stole the articles in the shops. The above allegation itself is sufficient enough to make out a *prima facie* case



against the petitioners. The civil dispute may be the motive for the occurrence as alleged by the petitioners.

7. At the threshold stage of the case itself, the Court cannot conduct a roving enquiry. It is for the prosecution to conduct a thorough investigation and to unravel the truth. There are seven golden principles laid down by the Hon'ble Supreme Court in ***State of Haryana and others Vs. Bhajan Lal and Others*** reported in ***1992 Supp (1) Supreme Court Cases 335***, in this regard and it is extracted as under:

“

(a) 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;

(b) 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;



(c) 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;

(d) 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;

(e) 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;

(f) 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;



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(g) where a criminal proceeding is manifestly attended with malafide 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”.

8. In the instant case, none of the above stated grounds seems to be present. On the other hand, *prima facie* materials are seen on the face of the complaint and hence I am not inclined to invoke the Powers under Section 482 of Cr.P.C., to quash the FIR.

9. In the result, this Criminal Original Petition is dismissed. The first respondent/ Inspector of Police, Thudialur Police Station, Coimbatore District is directed to complete the investigation within a period of two months 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

7/9



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WEB COPY **To**

- 1.The Inspector or Police,
Thudiyalur PS,
Coimbatore District.
2. The Public Prosecutor,
Madras High Court,
Chennai.



WEB COPY



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R.N.MANJULA,J.

vum

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