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CrI.O.P.No.24169 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2022

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrI.O.P.No.24169 of 2022

and

CrI.M.P.No.15319 of 2022

S.Kumar

...Petitioner

/vs/

1.The State,
Represented by
The Inspector of Police,
R.S.Puram, Coimbatore 641 002.

2.S.Vijaya

... Respondents

Prayer : The Criminal Original Petition has been filed under Section 482 Cr.P.C. to call for the records pertaining to the proceedings in Crime No.339 of 2022 dated 09.08.2022 on the file of the R.S.Puram Police Station, Coimbatore and quash the same.

For Petitioner

... Ms. S.Pooja Shree

For Respondent
No.1

... Mr.S.Santhosh
Government Advocate (CrI.Side)



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ORDER

This Criminal Original Petition has been filed to call for the records and quash the FIR in Crime No.339 of 2022 for the alleged offences under Sections 427 and 447 of IPC, pending on the file of the 1st respondent police.

2. The learned counsel for the petitioner has submitted that the defacto complainant is the sister of the petitioner and there is a civil dispute between them. Two civil cases are pending with regard to their property dispute and apart from this, as per the FIR allegation, the occurrence took place on 06.06.2022, but the FIR has been registered only on 09.08.2022. There is a huge delay in registering the FIR and the defacto complainant is also not in possession of the said property. Thus he pleaded to quash the FIR.

3. When the matter is taken up for hearing, the learned Government Advocate (Crl.Side) submitted that the matter is under investigation. There



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is a specific allegation by the complainant against the petitioner that on 06.06.2022, this petitioner has broke opened the lock and removed the articles from the room and attempted to rent it to some other person. In this case, it has to be investigated whether the petitioner has committed trespass and broke open the room.

4. On perusal of records, it is revealed that the petitioner's sister namely S. Vijaya gave a complaint against the petitioner before the respondent on 09.08.2022. It was received by the respondent police and a case was registered in Cr.No.339 of 2022 for the offences punishable under Sections 427 and 447 of IPC. On perusal of the FIR, it is seen that on 06.06.2022, at about 5.00. p.m., this petitioner broke opened the lock of the room, in which, the petitioner having his articles, removed the goods and attempted to rent the portion to some other persons. Thus, he trespassed into the room and also damaged the lock worth about Rs.350/-. So, the allegation against the petitioner, prima facie, make a cognizable offence. Therefore, it does not meet the parameters laid down by the Supreme Court in *State of Haryana vs. Ch.BhajanLal (AIR 1992 SC*



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604), M/s Neeharika Infrastructure Pvt. Ltd., Vs. State of Maharashtra

and others (2021 SCC online 315) & PRATIBHA RANI Vs.SURAJ

KUMAR & ANR (1985 CrL.L.J.817), the matter has to be investigated to find out the truth. Therefore, it is inappropriate to quash the FIR and close the investigation at the beginning stage. Therefore I find no merit and investigation is to be conducted to find out the truth. The contention of the petitioner that the delay in registering the FIR and despatching the FIR to the Judicial Magistrate has to be explained before the trial court.

5. In the result, this Criminal Original Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10.10.2022

Index : Yes/No

Internet : Yes/No

gv



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To

- 1.The Inspector of Police,
R.S.Puram, Coimbatore 641 002.
- 2.The Public Prosecutor,
High Court, Madras.



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V.SIVAGNANAM., J.

gv

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