



CrI.O.P.No.30311 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2022

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

CrI.O.P.No.30311 of 2022

CrI.M.P.No.18577 of 2022

M.Elavarasi

... Petitioner

Vs.

1.The State Represented by
The Inspector of Police, (Crime Branch),
D-1, Ramanathapuram Police Station,
Coimbatore City.

2.G.Maheshwaran

... Respondents

PRAYER: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to,

a)dispense with the production of certified copy of the F.I.R.No.520/2022 filed by the 1st respondent, pending disposal of the above Criminal Original Petition;

b)Stay all further proceedings in F.I.R.No.520 of 2022 on the file of the 1st respondent in so far as the petitioner is concerned, pending disposal of the above Criminal Original Proceedings;



Crl.O.P.No.30311 of 2022

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c)Call for the records relating to the F.I.R.No.520 of 2022 on the file of the D-1 Police Station, (Crime Branch), Ramanathapuram, Coimbatore City and quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.R.Bharath Kumar

For Respondents : Mr.S.Santhosh
Government Advocate (Criminal side)

ORDER

This Criminal Original Petition has been filed to call for the records relating to the F.I.R.No.520 of 2022 on the file of the D-1 Police Station, (Crime Branch), Ramanathapuram, Coimbatore City and quash the same.

2.The learned counsel for the petitioner submitted that petitioner is only an employee of Cube Square Construction and she is an Engineering graduate. She is no way connected with the alleged cheating and other offences alleged against other accused. She is falsely implicated. Therefore, this petition.

3.The learned Government Advocate (Criminal side) opposed this petition on the ground that petitioner was also actively involved in receiving



CrI.O.P.No.30311 of 2022

the amount from the defacto complainant and in cheating. The investigation in this case is pending.

4.The reading of the First Information Report shows that one Priya contacted the defacto complainant on 18.11.2021 stating that Cube Square is involved in construction business. Vacant site is available in Nehru Nagar and they would arrange for construction of the building. He was taken to Nehru Nagar site. On 25.11.2021, the defacto complainant and his wife visited the office of Cube Square Construction and met accused Jeganathan @ Jeganath singh, Kalaivani, Ilavarasi and two women. He was informed that this site measured 2.38 cent and they would arrange to construct a house with 1200 sqft for Rs.67,00,000/-. Thereafter, he was asked to handover records like Adhar card, Pan card to ilavarasi. On 11.12.2021, a sum of Rs.12,00,000/- was paid. At the time, all the accused were present. One Saran Raj was introduced for securing loan. On 06.05.2022, the defacto complainant visited Cube Square Construction office for entering into a sale agreement. The owner Jayalakshmi was not there. But they were made to sign in the sale agreement. When the defacto complainant met the owner of the site Jayalakshmi, Jayalakshmi told him that she never entered into the sale agreement. Therefore, it is clear that the accused have cheated the defacto complainant and made him to part with



Crl.O.P.No.30311 of 2022

Rs.13,00,000/-. When this amount was demanded by the defacto complainant, Jeganath singh, and Kalaivani have made criminal intimidation against the defacto complainant. Therefore, the complaint was given.

5. With regard to the quashment of the First Information Report, Hon'ble Supreme Court in ***State of Haryana V. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426*** laid down certain guidelines.

The relevant portion of the judgment is as follows:-

- (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 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.

*2. Further in the case of **Parbatbhai Aahir V. State of Gujaraj**, (2017) 9 SCC 641 : (2018) 1 SCC (Cri) 1 : 2017 SCC Online SC 1189, the Hon'ble Supreme Court laid out certain principles that the Court has to consider while quashing cognizable offences.*

The relevant paragraphs are as follows:-

16.2. 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



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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.

16.3 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;

16.4 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;

16.5 The decision as to whether a complaint or First Information Report should be quashed on the ground 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 formulated;

16.6 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;

16.7 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 in so far as the exercise of the inherent power to quash is concerned;



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16.8 Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

16.9 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

16.10 There is yet an exception to the principle set out in propositions 16.8 and 16.9 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.

6.The gist of the First Information Report allegation extracted above, makes out clear case of active involvement of the petitioner in cheating the defacto complainant. The First Information report allegations made out a cognizable offence justifying an investigation by the Police Officers in this case. Investigation in this case is at a nascent stage. This is not a fit case for quashing. Thus this Criminal Original petition is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.



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CrI.O.P.No.30311 of 2022

08.12.2022

Index: Yes/No

Speaking/Non speaking order

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Crl.O.P.No.30311 of 2022

G.CHANDRASEKHARAN.J.,

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To

- 1.The Inspector of Police, (Crime Branch),
D-1, Ramanathapuram Police Station,
Coimbatore City.
- 2.The Public Prosecutor,
High Court of Madras.

Crl.O.P.No.30311 of 2022
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