



CrI.O.P.(MD) No.3170 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.07.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.3170 of 2022

and

CrI.M.P(MD) No.2375 of 2022

1. R.Saravana Balagurusamy
2. R.Gokula Muni Samy
3. R.Mohanarangasamy
4. R.Palanisamy
5. P.Tamilselvan
6. R. Durai raj
7. D.Rama Samy

... Petitioners/ Accused No.1 to 7

Vs

1. The State Represented by
The Sub Inspector of Police,
Vadamadurai Police Station,
Dindigul District.

2. S.Suruli Raj

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in Crime No.58 of 2021, dated 24.01.2021 on the file of the Vadamadurai Police Station and to quash the same.



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For Petitioners : Mr.C.S.Ravichandran
For R1 : Mr.M.Sakthi Kumar
Government Advocate (Crl Side)
For R2 : Mr. S.Sankar

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.58 of 2021, dated 24.01.2021 for the offences under Sections 147, 294(b), 323, 324 and 506(ii) I.P.C on the file of the first respondent.

2. The learned counsel for the petitioners submitted that no incident took place on the day as alleged by the prosecution. The petitioners have given a complaint against some persons to the Electricity Board , who have illegally sold the water by using agricultural free current. Due to the said dispute, the petitioners were ex-communicated from the village. Therefore, this case has been fostered. Hence, he seeks to quash the said proceedings.

3. The learned Government Advocate (Criminal Side) appearing for the first respondent submitted that the investigation has been completed. He further submitted that once the wound certificate is obtained, the final report will be filed.



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4. I have considered the matter in the light of the submissions made by the learned counsel for both the parties.

5. The Hon'ble Supreme Court in **Indian Oil Corporation vs. NEPC India Limited and others [(2006)6 SCC 736]** laid down the principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings, which are relevant for the present purpose are:-

(i) A complaint can be quashed where the allegations made in 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 the case alleged against the accused.

For this purpose, the complaint has to be examined as a whole, but without examining the merits of the allegations. Neither a detailed inquiry nor a meticulous analysis of the material nor an assessment of the reliability or genuineness of the allegations in the complaint, is warranted while examining prayer for quashing of a complaint.



(ii) A complaint may also be quashed where it is a clear abuse of the process of the court, as when the criminal proceeding is found to have been initiated with malafides/malice for wreaking vengeance or to cause harm, or where the allegations are absurd and inherently improbable.

(iii) The power to quash shall not, however, be used to stifle or scuttle a legitimate prosecution. The power should be used sparingly and with abundant caution.

(iv) The complaint is not required to verbatim reproduce the legal ingredients of the offence alleged. If the necessary factual foundation is laid in the complaint, merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out : (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil



proceedings are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.

6. On a perusal of the records, it is seen that a case been registered in Crime No.58 of 2021, dated 24.01.2021 for the offences under Sections 147, 294(b), 323, 324 and 506(ii) I.P.C against the petitioners. On 23.01.2021, at Kasthurinayakkanpatti, there was a village meeting. At the time, at about 9.30 p.m the petitioners and others came there and abused the villagers using filthy language and assaulted them. One Saravanakumar and Kogulasami came in a Honda Shine vehicle bearing Registration No TN-39-BX-7618 and attacked the complainant and one Mehala. Both sustained injuries and got admitted in Dindigul Government Hospital. The defacto complainant gave a complaint to the respondent police and a case has been registered. So, it is clear that two persons were injured in the incident. Even though the petitioners disputed the said fact and denied the allegations, the



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factual defence has to be considered only after completion of investigation before the trial Court. It is brought to the notice of this Court that, the investigation has been completed and the final report is yet to be filed.

7. Further, the Hon'ble Supreme Court in the case of R.P.Kapur v. State of Punjab (AIR 1960 SC 866) and subsequent cases, has held that revisional or inherent powers for quashing the proceedings at the initial stage can be exercised only where the allegations made in the complaint or the first information report, even if taken at their face value and accepted in their entirety, do no prima facie disclose the commission of an offence or where the uncontroverted allegations made in the FIR or complaint and the evidence relied in support of the same do not disclose the commission of any offence against the accused, or the allegations are so absurd and inherently improper that on the basis of which no prudent person could have reached a just conclusion that there were sufficient grounds in proceedings against the accused or where there is an express legal bar engrafted in any provisions of the Code or any other statute to the institution and continuance of the criminal proceedings or where a criminal proceeding is manifestly actuated with mala fide and has been initiated maliciously with



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the ulterior motive for wrecking vengeance on the accused and with a view to spite him due to private and personal grudge.

8. The Investigating Agency should have the freedom to go into the whole gamut of the allegations and to reach a conclusion of its own. It is not appropriate to quash the complaint since this Court finds no merit in this case.

9. If the allegations made in the First Information Report *prima facie* discloses a cognizable offences, interference with the investigation is not proper, because that amounts to interfere with the statutory power of the police to investigate a cognizable offences in accordance with the provisions of Cr.P.C. Without thorough investigation, it is not possible or proper to hold whether the allegations made by the complainant are true or not. Hence, the investigation should have been allowed to continue, so that on filing of the final report under Section 173 Cr.P.C, the affected party could pursue its remedy against the final report in accordance with law.



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10. In the light of the above factual and legal positions, this Criminal Original Petition is dismissed with a direction to the respondent police to file a final report, after obtaining wound certificate, within a period of two months from the date of receipt of a copy of this order before the trial Court. Consequently connected miscellaneous petition is closed.

12.07.2022

Internet: Yes./No
Index: Yes/no
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To

1. The Sub Inspector of Police,
Vadamadurai Police Station,
Dindigul District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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V.SIVAGNANAM, J.

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ORDER IN
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