



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2022

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)Nos.9397 & 10553 of 2021

and

Crl.M.P(MD)No.4802 of 2021

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1.Crl.O.P(MD)No.9397 of 2021:-

G.Janarthanan

... Petitioner/Accused No.2

Vs.

1.The State represented by,
The Inspector of Police,
Peravurani Police Station,
Thanjavur District.
(Crime No.96 of 2019).

... 1st Respondent/Complainant

2.Ramachandran

... 2nd Respondent/Defacto complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and quash the F.I.R in Crime No.96 of 2019, dated 15.06.2019 on the file of the Inspector of Police, Peravurani Police Station, Thanjavur District.

For Petitioner

: Mr.N.Dilip Kumar

For R - 1

: Mr.B.Thanga Aravindh

Government Advocate (Crl. Side)

For R - 2

: Mr.R.Venkateshwar

2.Crl.O.P(MD)No.10553 of 2021:-

C.Ramachandran

... Petitioner/Defacto complainant

Vs.

1.The State represented by,
The Superintendent of Police,
Thanjavur District.

2.The Deputy Superintendent of Police,
Pattukottai Sub-Division,
Thanjavur District.

3.The Inspector of Police,
Peravurani Police Station,
Thanjavur District.
(Crime No.96 of 2019).



separate order was passed and directed to appoint some other Inspector. In the meanwhile, the second respondent filed a direction petition before this Court in Crl.O.P(MD)No.19220 of 2018 and this Court, by an order, dated 29.10.2018, directed the first respondent to register the case. In pursuant to the said direction, the present impugned F.I.R in Crime No.96 of 2019 has been registered for the offences under Sections 419, 420, 465, 468, 471 and 109 of I.P.C as against the petitioner and another.

4.In the meanwhile, the second respondent also filed a Writ Petition before this Court in W.P(MD)No.8343 of 2021 seeking direction to take disciplinary proceedings as against the petitioner. Now, the petitioner is facing departmental proceedings on the complaint lodged by the second respondent.

5.Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Criminal Side) appearing for the first respondent and the learned counsel appearing for the second respondent and perused the materials available on record.

6.On a perusal of the records revealed that the petitioner herein, while serving as Inspector of Police, Peravurani Police Station, registered the case as against Venkateshwar in Crime No.127 of 2011, dated 01.08.2011 for the offences under Sections 341, 294(b) and 506(ii) of I.P.C and thereafter, another case has also been registered in Crime No.196 of 2008, dated 01.10.2018 for the offences under Sections 324 and 506(ii) of I.P.C.

7.The petitioner while serving as Inspector of Police of the first respondent, the following cases have been registered as against the said Venkateshwar:-

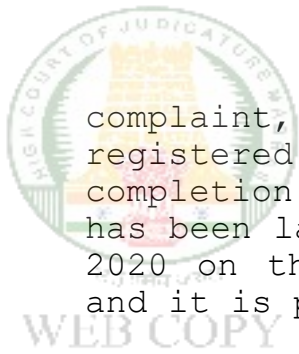
"a) Crime No.233 of 2017, dated 15.09.2017 under Sections 294(b), 427 and 506(ii) of I.P.C.

b) Crime No.232 of 2017, dated 15.09.2017 under Sections 147, 148 and 506(ii) of I.P.C.

c) Crime No.31 of 2018, dated 17.03.2018 under Sections 143, 148, 341, 294(b) and 506(i) of I.P.C.

d) Crime No.133 of 2018 under Sections 294(b), 324 of I.P.C and Section 3(1) of TN PPDL Act and 3(i) (R) (S) of SC/ST Act."

8.In fact, history sheet was opened against the said Venkateshwar after the tenure of the petitioner herein. Due to which, he developed personal animosity against the petitioner and he also lodged a complaint before the State Human Rights Commission in SHRC No.3218 of 2018 with several false allegations. However, it was not prosecuted by him and it was dismissed on 14.06.2019. While being so, for the occurrence happened on 16.06.2017 on the complaint lodged by the second respondent and the accused in the said



complaint, the Sub-Inspector of Police of the first respondent registered the FIRs in Crime Nos.157 and 158 of 2017. After completion of investigation in Crime No.158 of 2017, charge sheet has been laid and the same has been taken cognizance in C.C.No.99 of 2020 on the file of the learned Judicial Magistrate, Pattukkottai and it is pending for trial.

9.However, the said counsel Venkateswar, who appeared for the second respondent, submitted representation as if the Sub-Inspector of Police, impersonated the second respondent and forged the signature of the second respondent and registered the F.I.R in Crime No.157 of 2017 only against five accused persons on the instigation of the petitioner herein. As stated supra, after direction issued by the learned Magistrate, now the impugned F.I.R has been registered for the said allegations as against the Sub-Inspector of Police at that juncture. Now, the investigation completed by other Inspector of Police in Crime No.157 of 2017 and filed final report as against 10 accused persons for the offences under Sections 147, 148, 294(b), 324, 506(ii), 452, 323 and 149 of I.P.C.

10.Even according to the second respondent, the F.I.R has been registered in Crime No.157 of 2017 by the first accused in Crime No.96 of 2019, namely the Special Sub-Inspector of Police. The only allegation as against the petitioner is that he only instigated the Special Sub-Inspector of Police to register the complaint only as against five accused persons instead of 10 accused persons. Now, the first accused had taken voluntary retirement from service as early as on 31.03.2018 itself. As far as the petitioner is concerned, he is also facing departmental proceedings with regard to the complaint lodged by the counsel, who appeared for the second respondent.

11.That apart, on a perusal of the impugned F.I.R registered in Crime No.96 of 2019, there is absolutely no ingredients to attract the offences as alleged by the prosecution.

12.The Honourable Supreme Court of India in the case of ***M/s. Indian Oil Corporation Vs. NEPC India Limited and others [(2006) 6 SCC 736]***, held that the civil liability cannot be converted into criminal liability and held and as under while on this issue, it is necessary to take notice of a growing tendency in business circle to convert purely civil dispute in criminal case. This is obviously on account of prevalent impression that civil law remedies are time consuming and do not adequately protect the interest of lender/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable breakdown of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claim



which do not involve any criminal offence by applying pressure through criminal prosecution should be deprecated and dishonoured.

13. In the case of **G.Sagar Suri Vs. State of Uttar Pradesh [2000 (2) SCC 636]**, the Honourable Supreme Court of India held as follows:-

"It is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence, criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal Court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this Section has to be exercised to prevent abuse of the process of any Court or otherwise to secure the ends of justice."

14. It is seen from the F.I.R that there is absolutely no piece of material has been found that the petitioner committed the offence under Section 420 of I.P.C., Where the ingredients required to constitute a criminal offence are not made out from a bare reading of the complaint/F.I.R, the continuation of the proceeding will constitute an abuse of the process of the Court.

15. Insofar as the other offences are concerned, there are no ingredients to attract the offences under Sections 419, 465, 468, 471 and 109 of I.P.C as against the petitioner.

16. On a perusal of the statement recorded from the second respondent revealed that the complaint lodged by the second respondent and the signature found in the statement are one and the same. The complaint lodged by the second respondent and the complaint lodged by the first accused, namely, the Special Sub-Inspector of Police written by one and the same person. Therefore, there is no question of forgery and falsification of documents by the petitioner herein. In fact, now the entire investigation completed and final report filed as against 10 accused persons in Crime No.157 of 2017 for the offences under Sections 147, 148, 294 (b), 324, 506(ii), 452, 323 and 149 of I.P.C. Therefore, the present F.I.R is nothing but to wreak vengeance against the petitioner, foisted a false complaint.

17. It is relevant to rely upon the land mark Judgment of the Honourable Supreme Court of India in the case of **State of Haryana and others Vs. Bhajanlal and others** reported in **1992 Supp (1) SCC 335**, in which, the Honourable Supreme Court of India has laid down



the following categories of instances wherein inherent powers can be exercised in order to secure the ends of justice as follows:-

"(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;

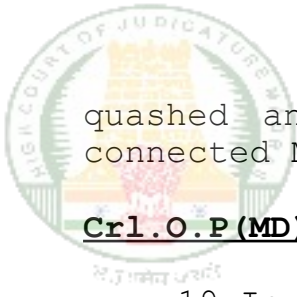
(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(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;

(g) 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."

18. In view of the above, the impugned F.I.R cannot be sustained as against the petitioner and it is liable to be quashed and the F.I.R in Crime No.96 of 2019 on the file of the first respondent is

<https://hcservices.ecourts.gov.in/hcservices/>



quashed and Crl.O.P(MD)No.9397 of 2021 is allowed. Consequently, connected Miscellaneous Petition is closed.

Crl.O.P(MD)No.10553 of 2021:-

19. In view of the order passed in Crl.O.P(MD)No.9397 of 2021, the transfer of investigation in Crime No.96 of 2019 on the file of the third respondent does not arise. Hence, Crl.O.P(MD)No.10553 of 2021 is dismissed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Superintendent of Police,
Thanjavur District.
- 2.The Deputy Superintendent of Police,
Pattukottai Sub-Division,
Thanjavur District.
- 3.The Inspector of Police,
Peravurani Police Station,
Thanjavur District.
- 4.The Inspector of Police,
CBCID,
Thanjavur District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+3 CC to M/s.R. VENKATESHWAR, Advocate (SR-19252[F]
dated 19/04/2022)

Order made in
Crl.O.P(MD)Nos.9397 & 10553 of 2021
12.04.2022