



CrI.O.P.(MD) No.10430 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	13.06.2022
Delivered on	27.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrI.O.P.(MD) No.10430 of 2022

and

CrI.M.P(MD)No.6521 of 2022

B.Rajkumar

... Petitioner

Vs.

1.The State rep. by the Inspector of Police,
Nagamalai Pudukkottai Police Station,
Madurai District.

2.C.Arul Robert Vijay Singh

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C.
praying to call for the records pertaining to the impugned FIR in Cr.No.
172 of 2022 dated 17.05.2022 on the file of the first respondent police
and quash the same.

For Petitioners : Mr.N.Karthik Kanna
For Respondent : Mr.M.Sakthikumar
Govt. Advocate (crl. side) (for R1)



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ORDER

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This Criminal Original Petition is filed to quash the First Information Report in Crime No.172 of 2022 dated 17.05.2022 on the file of the first respondent/Inspector of Police, Nagamalai Pudukkottai Police Station, Madurai District.

2. Fact:- Based on the complaint given by the second respondent, a case has been registered against the petitioner in Crime No.172 of 2022 for the offence under Sections 406 and 420 IPC. In the complaint, it has been stated that the petitioner/accused received a sum of Rs.3,25,000/- from the second respondent by assuring that he will obtain a job for the complainant from the Tamil Nadu Electricity Board. Since the petitioner has not acted as stated, the case has been registered.

3. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution and he is working as Office Assistant at Kallar Reclamation Department. He further submitted that the defacto



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complainant is the brother in law of one of the petitioner's colleagues by name, S.Simson. The second respondent/defacto complainant approached one Arumugam for getting government job in TNEB and paid Rs.4,00,000/- and thereafter, the said Arumugam was arrested for job racketeering. Later, the defacto complainant manage to get old open cheque which was given by the petitioner to his colleague i.e., Simson for Reliance Insurance Payment. By using the same, he has come forward with the false allegation and filed a false complaint. Hence, the learned counsel prays for quashing the First Information Report.

4.In support of his contention, the learned counsel relied on the following Judgments of the Hon'ble Apex Court.

(i) Kishan Singh (dead) through Lrs. vs. Gurpal Singh and others reported in **(2010)8 SCC 775;**

(ii) Lalitha Kumari vs. Government of Uttar Pradesh reported in **(2014)2 SCC 1;** and

(iii) State of Haryana vs. Bhajan Lal reported in **1992 Supp (1) SCC 335.**



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5. The learned Government Advocate (criminal side) appearing for the first respondent police submitted that in this case, investigation is pending and the case has been registered only on 17.05.2022. Further, the petitioner received the amount from the defacto complainant on various dates and also gave a forged appointment order and identity card. Hence, he prays for dismissal of this petition.

6. I have considered the rival submission of both the learned counsel appearing on either side.

7. On perusal of the complaint, it is seen that the petitioner, by assuring to get a job to the defacto complainant at Tamil Nadu Electricity Board, received totally a sum of Rs.3,25,000/- from the defacto complainant on various dates. Further, it is alleged that the petitioner gave forged appointment order and Identity Card No.327 as if, issued by the Tamil Nadu Electricity Board Contract Labour Association. Based on which, the second respondent/defacto complainant gave money to the



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petitioner. After he realized that the petitioner cheated him, he lodged the complaint. However, the learned counsel for the petitioner disputed all the allegations contained in the complaint.

8. Further, a perusal of the records shows that the second respondent/defacto complainant gave a complaint to the respondent police and thereafter, send a representation to the respondent police. Since no action has been taken, he filed a writ petition W.P(MD)No.6428 of 2022 seeking a direction to the respondent police to take necessary action against the petitioner based on his representation. This Court, by order dated 07.04.2022, directed the respondent police to conduct enquiry on the complaint lodged by the second respondent. Thereafter, on 17.05.2022, the impugned First Information Report has been registered.

9. 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



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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.



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(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.



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10. In the case on hand, the receipt of money by the petitioner from the second respondent/defacto complainant is clearly stated by the second respondent/defacto complainant. Further, the fact that the petitioner gave forged appointment order and identity card has to be investigated.

11. 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. Therefore, the police will proceed to complete the investigation fairly on the same expeditious and submit the required final



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report to the learned Jurisdictional Judicial Magistrate who shall act in accordance with law.

12.The decisions relied on by the learned counsel for the petitioner are factually distinguishable. The decisions arrived on different factual situation. In the present case, the factual situation is distinguishable from that decision. Therefore, those decisions are not helpful to the petitioner to defend his case. It is not appropriate to quash the complaint since this Court finds no merit in this case.

13. In the light of the above factual and legal positions, this Criminal Original Petition is dismissed. Consequently connected miscellaneous petition is also dismissed.

27.07.2022

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
skn



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To

- 1.The Inspector of Police,
Nagamalai Pudukkottai Police Station,
Madurai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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V.SIVAGNANAM, J.

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