



Crl.O.P.(MD) No.11521 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.06.2022

CORAM:

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

Crl.O.P.(MD) No.11521 of 2022

and

Crl.M.P(MD) Nos.7271 and 7268 of 2022

R.Ramesh,

: Petitioner

Vs

1.State represented by
The Inspector of Police,
Ambadurai Police Station,
Dindigul District.
Crime No.720/2020.

2. M.Kingsly Prince,

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records pertaining to the charge sheet in C.C.No.397 of 2021 pending on the file of the learned Judicial Magistrate No.III, Dindigul District, in Crime No.720 of 2020 dated 09.09.2020 for an alleged offence under sections 279/304(A) IPC and quash the same as illegal.



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For Petitioner : M/s.Thirumurugan R,
For R1 : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

ORDER

This criminal original petition has been filed seeking to quash the charge sheet in C.C.No.397 of 2021 pending on the file of the learned Judicial Magistrate No.III, Dindigul District.

2.The learned Counsel appearing for the petitioner submitted that the criminal proceedings barred by limitation as the charge is under Sections 279, 304(a) alone and further submitted that in the FIR, the accused person's name is not mentioned, but at the time of filing the charge sheet, they mentioned the accused person's name as 'driver of the offending vehicle'.

3.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:-



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(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



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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.

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

5.On a perusal of records, it reveals that the petitioner is an accused person in C.C.No.397 of 2021, on the file of the learned Judicial Magistrate No.III, Dindigul District. The respondent police prosecuted the petitioner for



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having caused death of one Mariya Thomas by rash and negligent driving of his car bearing registration No.TN 67 BW 7533 in the occurrence took place on 08.09.2020. Admittedly, in the FIR, the name of the person, who drove the vehicle is not mentioned. But they only stated about the accident caused by the car and without stopping the car, the driver ran away from the place of occurrence. After investigation, the respondent police detected the car driver, who caused the accident and finally, charge sheeted the accused person. But, according to the petitioner, the accused has not driven the vehicle at the time of the accident. After investigation, the respondent police found that the petitioner alone caused the accident and also caused the death of the complainant's father namely, Mariya Thomas, on 08.09.2020. This fact is disputed. Hence, the accused person, who caused the accident, has to be decided by the trial Court by letting the prosecution evidence.

6.On perusal of the charge sheet and the statement of witnesses shows that *prima facie* an offence and allegation made therein will have to be taken on the face value. If it could not be said that their prosecution would amount to an abuse of process of the Court, invoking inherent power, prior to the commencement of trial and leading of evidence, to quash prosecution is not



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desirable. Power should be exercised only in exceptional cases. Hence, I find no merits in the Criminal Original Petition.

7.At the this stage, it cannot be quashed. Therefore, I find no merit in this criminal original petition and the same is dismissed.

8.Consequently, the connected miscellaneous petitions are closed.

29.06.2022

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



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V.SIVAGNANAM, J.

lr

To

1. The Inspector of Police,
Ambadurai Police Station,
Dindigul District.

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

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