



CRL.O.P (MD) No.11285 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.11285 of 2022

and

CrI.M.P(MD)No.7116 of 2022

1.Ramya

2.Murugan

... Petitioners/Accused Nos.1 & 2

Vs.

1.The Inspector of Police,
Panayapatti Police Station,
Pudukkottai District.
(In Crime No.47 of 2022)

...1st Respondent/Complainant

2.Nallaiya

...2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertaining to the First Information Report in Crime No.47 of 2022 on the file of the Inspector of Police, Panayapatti Police Station, Pudukkottai District and quash the same.

For Petitioners : Mr.V.Selvakumar

For Respondent : Mr.M.Sakthikumar

Government Advocate (CrI.Side)

ORDER

This petition is filed to quash the First Information Report in Crime No.47 of 2022 on the file of the first respondent police.



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2.The learned counsel for the petitioners submitted that the case has been registered against the petitioner in Crime No.47 of 2022 for the offences punishable under Sections 294(b), 323 and 506(i) of IPC based on the complaint given by one Nallaiya, S/o.Ramaih. According to the petitioners, the occurrence took place on 19.03.2022, but the defacto complainant gave a complaint before the first respondent on 23.04.2022 and the same was registered only on 30.04.2022. Therefore, he prays for quashing the said F.I.R.

3.The learned Government Advocate (Crl.side) appearing for the respondent police submitted that the injured admitted in the hospital and after obtaining the statement from him, the case has been registered on 30.04.2022 and investigation is still pending. He further submitted that the accused Ramya has also given a complaint against the defacto complainant in Crime No.47 of 2022 alleged that the defacto complainant by misusing their caste attempted to assault her. Thereby, the case has been registered in Crime No.46 of 2022 for the offences punishable under Sections 294(b), 3(1)(r), 3(1)(g) of SC/ST Act. Both the cases were registered on the same day.



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4. I have considered the submission of the learned counsel appearing for the petitioners and the learned Government Advocate (criminal side) appearing for the respondent police.

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



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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.In the case on hand, a perusal of impugned FIR shows that on 23.04.2022, while the Sub Inspector of Police, Panayapatti Police Station in station one Nallaiya, S/o.Ramaih, Arangnanam Patti, V.Lakshmipuram Post, Thirumayam Taluk, Pudukottai District gave a complaint with regard to the criminal incidents. For that a CSR.146/2022 was given. After enquiry, since the respondent police found that the incident is true, the case has been registered in Crime No.47 of 2022. The first F.I.R. registered in Crime No.46 of 2022 for the offences punishable under Sections 294(b), 3(1)(r), 3(1)(g) of SC/ST Act based on the complaint given by one Ramya, W/o.Pandiselvam, Arangnanampatti Village, Thirumayam Taluk. In that complaint, she alleged that one Nallakutti @ Vellaichamy, Jeyam Vaijyanthi attempted to form a fence over the place, in which, the defacto complainant restrained for several periods. While asking the same, they



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misusing their caste attempted to assault her. Both the cases were registered on the same day. It reveals the fact that it is a case in counter and investigation is still pending. Therefore, at this stage, it is inappropriate to quash the F.I.R.

7.On perusal of impugned F.I.R, it is seen that the allegation therein would *prima facie* make out a case for investigation by the police authority.

8.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



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

9.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.

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

24.06.2022

Internet:Yes./No
Index:Yes/no
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V.SIVAGNANAM, J.

vsd

To

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

ORDER IN
CRL.O.P (MD) No.11285 of 2022
and
CrI.M.P(MD)No.7116 of 2022

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