



CrI.O.P.(MD) No.11218 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.06.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.11218 of 2022
and
CRL.M.P(MD) Nos.7069 and 7071 of 2022

1.Vidhya
2.Muthuvijayaram
3.Baskar

... Petitioners

Vs

1.The Inspector of Police,
Silaiman Police Station,
Madurai District.

2.Sekar

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in C.C.No.546 of 2022 on the file of the Judicial Magistrate No.II, Madurai, and quash the same

For Petitioner : Mr.A.Sivasubramanian

For 1st Respondent: Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



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ORDER

This Criminal Original Petition has been filed to quash the case in C.C.No.546 of 2022 on the file of the Judicial Magistrate No.II, Madurai.

2.The learned counsel appearing for the petitioners submitted that the first petitioner is the daughter of the second respondent/defacto complainant namely Sekar and the second petitioner is the husband of the first petitioner and third petitioner is the brother of the second petitioner. The second respondent gave a complaint against his daughter and his son-in-law alleging that on 18.08.2022, the petitioners said to have threatened the second respondent to vacate the house and also assaulted him. He further submitted that the entire allegations against the petitioners are false and there is no evidence made out for the alleged offence under Sections 294(b), 323 and 506(i) of IPC. The first respondent Police without any allegations and any reason, has prosecuted the criminal proceedings against the petitioners. Hence, he prayed to quash the criminal proceedings against the petitioners.



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3.The learned Additional Public Prosecutor submitted that the second respondent/complainant gave a clear allegations against the petitioners. On reading of the charge sheet and 161(3) statements, the allegation has to be proved before the Court below by way of evidence. Hence, he prayed to dismiss this petition.

4.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.

5.Considering the matter in the light of the submissions made by both the counsels and on a perusal of records, the fact reveals that the complaint is given by the father of the first petitioner. On the allegations, it is seen that the first petitioner along with her husband and his friends forced the father to went out the house for occupying the house and threatened him and also assaulted him. Thereby, he gave a complaint on 18.08.2020. Thereafter, the first respondent Police registered a case and investigated the same and recorded 17 witnesses and also 161(3) statements have been recorded in this prosecution case.

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



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

7.At the initial stage, it cannot be quashed. Therefore, I find no merit in this criminal original petition and the same is dismissed. Consequently, the connected miscellaneous petitions are closed.

24.06.2022

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

- 1.The learned Judicial Magistrate No.II,
Madurai.
- 2.The Inspector of Police,
Silaiman Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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V.SIVAGNANAM, J.

vsg

ORDER IN
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