



CRL.O.P(MD)No.11257 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.11257 of 2022

and

CrI.M.P(MD)No.7094 of 2022

1.T.Ramar

2.T.Rajamani

... Petitioners/Accused Nos.1 & 2

Vs.

1.State Rep. by

The Inspector of Police,  
All Women Police Station,  
Manapparai, Trichy District.  
(Cr.No.3 of 2022)

... 1<sup>st</sup> Respondent/Complainant

2.R.Sarathapriya

... 2<sup>nd</sup> 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.3 of 2022 dated 01.02.2022 on the file of the first respondent and quash the same as illegal.

For Petitioner : Mr.K.Manoharan

For R1 : Mr.M.Sakthikumar  
Government Advocate (CrI.side)



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## ORDER

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The second respondent, who is the wife of the first petitioner, lodged a complaint against the petitioners. Based on the said complaint, the respondent police, registered the First Information Report in Crime No.3 of 2022 under Sections 498(A), 294(b) and 506(i) of IPC and the same is under investigation. Now, the petitioners/A1 and A2 have approached this Court by way of this petition under Section 482 of Cr.P.C., to quash the said proceedings registered against them.

2.The learned counsel for the petitioners submitted that the marriage between the first petitioner and the second respondent/defacto complainant took place on 17.08.2016. Due to difference of opinion, the first petitioner and the defacto complainant are living separately. Under such circumstances, the second respondent/defacto complainant has filed divorce petition in HMOP.No.37 of 2021 before the Sub Court, Manapparai and the same was closed on 22.09.2021 as compromise arrayed between the parties. Now, the second respondent lodged a false complaint against the petitioners before the respondent police and the case has been registered under Sections 498(A), 294(b) and 506(i) of IPC. Without following the procedure, the



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respondent police has registered the case as against the petitioners.

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 the relationship of the petitioners and the defacto complainant is not disputed, but the allegation stated in the complaint has to be investigated. At this stage, the said F.I.R cannot be quashed.

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



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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.

6.In the case on hand, a perusal of records, it reveals that the second respondent/defacto complainant, namely, R.Sarathapriya married the first petitioner on 17.08.2016 and they are having a child. After marriage, the first petitioner gone to foreign country for his employment and the defacto complainant had lived along with the second petitioner, who is her mother-



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in-law and their family. Thereafter, the second petitioner had started to give mental and physical torture to the defacto complainant for demanding dowry. The defacto complainant informed the same to the first petitioner, but the first petitioner did not taken any care of it. Hence, the defacto complainant had left from the matrimonial home and went to her parents' home. Subsequently, the first petitioner had came back to India and they compromised the matter and lived for separate family in a short period. While she was conceived as second time, the first petitioner compelled to abort her infant and also caused life threat. Further, the second petitioner is also going to arrange second marriage to the first petitioner. Hence, the defacto complainant has lodged a complaint against the petitioners and the case has been registered.

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



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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 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.



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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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To

- 1.The Inspector of Police,  
All Women Police Station,  
Manapparai,  
Trichy District.
- 2.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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V.SIVAGNANAM, J.

vsd

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