



Crl.O.P.(MD) No.11457 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2022

CORAM:

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

Crl.O.P.(MD) No.11457 of 2022

and

Crl.M.P(MD) Nos.7250 and 7251 of 2022

Durairaj,

: Petitioner

Vs

1. State represented by
The Inspector of Police,
All Women Police Station,
Dindigul,
Dindigul District.
Crime No.02 of 2020.

2. Yogapriya,

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records and quash the charge sheet in C.C.No.421 of 2022, on the file of the learned Additional Mahila Court Dindigul, Dindigul District as against the petitioner herein.



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For Petitioner : M/s.Manikandan G D,

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.421 of 2022, on the file of the learned Additional Mahila Court, Dindigul, Dindigul District.

2.The learned Counsel appearing for the petitioner submitted that the petitioner is the father-in-law of the complainant. The respondent police prosecuted the petitioner along with other accused persons for the offences under Sections 323 and 498(A) of IPC and Section 4 of Dowry Prohibition Act, 1961. A case in C.C.No.421 of 2022 is pending before the Additional Mahila Court, Dindigul West. There is no specific allegation against the petitioner as though he assaulted the complainant, Section 323 of IPC will not be made out. With regard to Section 498(A) of IPC, there is a bald allegation against the petitioner. Further, there is no specific date and proof for that. Under these circumstances, the offences are not made out against the petitioner and pleaded to quash the proceedings in C.C.No.421 of 2022.



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3.The learned Additional Public Prosecutor submitted that the case is post for appearance of the accused persons, on 29.06.2022.

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



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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



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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, it reveals that the petitioner is an accused person in C.C.No.421 of 2022, on the file of the Additional Mahila Court, Dindigul West. The petitioner is the father-in-law of the complainant and the other accused persons are husband and mother-in-law of the complainant. The petitioner filed this petition on the ground that there is no specific allegation against him with regard to assaulting the complainant and demanding dowry. There is no specific date had been attributed against him.

6.I have gone through the statement of the witnesses and the complainant. The complainant specifically stated that the petitioner along with other accused persons 2 to 4, demanded additional amount of Rs. 50,00,000/-(Rupees Fifty Lakhs Only) and also demanded Hundred sovereign of gold jewels. This statement is disputed by the petitioner. When a fact is disputed, whether the allegation is true or not, it cannot be gone through in Section 482 Cr.P.C., petition. On reading the statement of the witnesses and



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the charges, it is found that there is a disputed fact with regard to the demand of dowry by the petitioner along with other accused person. This fact has to be decided by letting evidence prosecution before the trial Court.

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

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

9.However, the learned Counsel appearing for the petitioner submitted that the personal appearance of the petitioner before the trial Court may be dispensed with.



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10.I have considered the submission. The petitioner is being a sixty five year old senior citizen, father-in-law of the complainant and further, there is no specific allegation as against him in assaulting the complainant and it was alleged that he demanded dowry along with other accused persons. Therefore, considering the age and allegation as against him, the personal appearance of the petitioner before the trial Court is hereby, dispensed with. But, he should appear before the trial Court, whenever required for further proceedings.

11.Consequently, the connected miscellaneous petitions are closed.

28.06.2022

Internet:Yes
Index:Yes/No
Speaking/Non speaking order
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V.SIVAGNANAM, J.

lr

To

1. The Inspector of Police,
All Women Police Station,
Dindigul,
Dindigul District.

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

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