



CRL.O.P (MD) No.11373 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 27.06.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.11373 of 2022

and

CrI.M.P(MD)No.7173 of 2022

Barathi @ Barathiraja

... Petitioner/Accused No.15

Vs.

1.State Rep. by

The Sub Inspector of Police,
Vadipatti Police Station,
Madurai District.
(In Crime No.180 of 2022)

... 1st Respondent/Complainant

2.Jeyamurugan

... 2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to Cr.No.180 of 2022 dated 04.06.2022 on the file of the Inspector of Police, Vadipatti Police Station, Madurai District and quash the same as illegal.

For Petitioner : Mr.N.Senthilkumar
For R1 : Mr.M.Sakthikumar
Government Advocate (Crl.side)



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ORDER

This petition has been filed to quash the FIR in Cr.No.180 of 2022, dated 04.06.2022 on the file of the first respondent police.

2.The learned counsel for the petitioner submitted that on 03.06.2022 at about 8.00 p.m. there is a group clash between the two groups, in which, some of the identified people damaged the *de facto* complainant's car. Therefore, the defacto complainant lodged a complainant before the respondent police and a case has been registered against 16 persons in Crime No.180 of 2022 for the offences under Sections 147, 294(b), 355, 324, 427, 506(ii) IPC and Section 4 of TNPWH Act. The petitioner is working in Union Bank of India at Katchaikatti Branch, Vadipatti Taluk, Madurai and he is no way connected with the offence. Hence, he prays for quashing the FIR.

3.The learned Government Advocate (Crl.side) appearing for the respondent police submitted that the petitioner, who arrayed an accused No.15 in the F.I.R. The petitioner is a named accused and investigation is still pending. Only two accused were arrested and other accused are now absconding and they are taking steps for arresting the accused. Hence, he prays for dismissal of this petition.



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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 the case of ***Indian Oil Corporation vs. NEPC India Limited and others*** reported in ***(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.”

6.In the case on hand, a perusal of records, it is seen that the occurrence took place on 03.06.2022 at 9.00 p.m. There is a group clash between the parties, in which, some are injured by way of hands and stones and the car bearing Registration No.TN-72-D-5389 was also damaged. Hence, the case has been registered and further the petitioner is mentioned as 15th accused in the F.I.R. According to the prosecution, only two accused were arrested and tracing out the remaining accused and investigation is still pending. A perusal of the fact discloses the commission of the offence and investigation is still pending and only two accused have been arrested and remaining accused yet to be arrested and the petitioner is being a named accused, it is inappropriate to quash the F.I.R. against the petitioner.

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.



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8. Further, the Hon'ble Supreme Court in the case of ***R.P.Kapur v. State of Punjab*** reported in ***AIR 1960 SC 866*** and in 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 they are taken at their face value and accepted in their entirety, do not 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 proceeding 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, 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.

27.06.2022

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

To

1. The Sub Inspector of Police,
Vadipatti Police Station,
Madurai District.
2. Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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V.SIVAGNANAM, J.

vsd

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