



CrI.O.P.(MD) No.12077 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 06.07.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.12077 of 2022

and

CrI.M.P(MD) No.7633 of 2022

P.Murugesan

... Petitioner/ Sole Accused

Vs

1.The Inspector of Police,
Thondi Police Station,
Ramanathapuram District.
(in Crime No.315 of 2021)

... 1st Respondent/Complainant

2.Arunagirinathan

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records relating to the impugned FIR in Crime No. 315 of 2021, dated 30.12.2021, on the file of the first respondent and to quash the same as illegal.

For Petitioner : Mr.SP. Vijay Nivas

For R1 : Mr.R.Suresh Kumar
Government Advocate (CrI Side)



Crl.O.P.(MD) No.12077 of 2022

ORDER

WEB COPY

This Criminal Original Petition has been filed to quash the FIR in Crime No.315 of 2021, on the file of the first respondent.

2. The learned counsel for the petitioner submitted that the petitioner is working as Senior Driver in the Tamil Nadu State Transport Corporation at Sivagangai Branch. On 29.12.2021, at about 5.30 p.m, while the petitioner was driving the Transport Corporation Bus bearing Registration No.TN-63-N-1640 near Ettukudi Sarukai Bridge, a two wheeler bearing Registration No. TN-65-AA-8763 rode by a man along with his child capsized into a pit due to heavy rain. On seeing the same, the petitioner had stopped his bus and assisted the injured to take him hospital. Therefore, the case has been registered in Crime No.315 of 2021 for the offences under Sections 279 and 337 I.P.C against the petitioner. He further submitted that, in the Motor Vehicle Report, there is no damage for both the vehicles and the rider of the two wheeler had no driving licence and the vehicle also had no insurance. He further submitted that the calculation enquiry officer conducted on independent enquiry and found that with the collusion of



Crl.O.P.(MD) No.12077 of 2022

police officials, the defacto complainant for getting compensation, foisted the false case.

3. The learned Government Advocate (Criminal Side) appearing for the first respondent submitted that the case is under investigation.

4. I have considered the submission of the learned counsel appearing for the petitioner 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.



Crl.O.P.(MD) No.12077 of 2022

(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. I have considered the submissions and on perusal of the records, it is seen that the case has been registered against this petitioner in Crime No. 315 of 2021 for the offence under Sections 279 and 337 I.P.C. The averments in the complaint are that on 29.12.2021, at about 05.30 p.m, while the petitioner was driving the Transport Corporation Bus bearing Registration No.TN-63-N-1640 near Ettukudi Sarukai Bridge, a two wheeler bearing Registration No. TN-65-AA-8763 rode by a complainant along with his child capsized into a pit due to heavy rain. On seeing the same, the petitioner had stopped his bus and they were sustained injuries to



Crl.O.P.(MD) No.12077 of 2022

take him hospital. Therefore, the case has been registered in Crime No.315 of 2021 for the offences under Sections 279 and 337 I.P.C against the petitioner. Now, the petitioner disputed allegation stated in the complaint that the petitioner has caused the accident. In support of his argument relied the Motor Vehicle Report as to the non-mentioning of the damages for both the vehicles. So, it is a disputed fact as to whether the petitioner driver caused the accident or not? It has to be decided after investigation. At this initial stage, the FIR cannot be quashed.

7. 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 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



Crl.O.P.(MD) No.12077 of 2022

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.

8. 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.

9. If the allegations made in the First Information Report *prima facie* discloses a cognizable offences, interference with the investigation is not proper, because that amounts to interfere with the statutory power of the police to investigate a cognizable offences in accordance with the provisions of Cr.P.C. Without thorough investigation, it is not possible or proper to hold whether the allegations made by the complainant are true or



Crl.O.P.(MD) No.12077 of 2022

not. Hence, the investigation should have been allowed to continue, so that on filing of the final report under Section 173 Cr.P.C, the affected party could pursue its remedy against the final report in accordance with law.

10. Therefore, the police will proceed to complete the investigation fairly on the same expeditious and submit the required final report to the learned Jurisdictional Judicial Magistrate who shall act in accordance with law.

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

06.07.2022

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



Crl.O.P.(MD) No.12077 of 2022

To

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



WEB COPY



Crl.O.P.(MD) No.12077 of 2022

V.SIVAGNANAM, J.

ebsi

ORDER IN
CRL.O.P (MD) No.12077 of 2022

06.07.2022