



Crl.O.P.(MD) No.11536 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.06.2022

CORAM:

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

Crl.O.P.(MD) No.11536 of 2022

and

Crl.M.P(MD) Nos.7277 and 7278 of 2022

Muthulakshmi,

: Petitioner

Vs

1. State represented by
The Inspector of Police,
Suchindram Police Station,
Kanyakumari District
(Crime No. 379 of 2019).

2. Krishnaleela,

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records relating to the charge sheet in C.C. No. 37 of 2022, on the file of the Additional Mahila Court, Nagercoil, Kanyakumari and quash the same as against the petitioner/A1 herein.



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For Petitioner : M/s.Sathya Selvi T,
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. 37 of 2022, on the file of the Additional Mahila Court, Nagercoil, Kanyakumari.

2.The learned Counsel appearing for the petitioner submitted that the petitioner is the first accused in this case and she obtained loan in ESAF Micro Finance. But there is no such transaction as stated by the prosecution. The allegation also not true only the petitioner's mother-in-law instigated this case and pleaded to quash the proceedings.

3.The learned Additional Public Prosecutor submitted that the case in C.C.No.37 of 2022, on the file of the Additional Mahila Court, Nagercoil, Kanyakumari, is posted on 01.08.2022, for appearance of the accused persons and for further proceedings.

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.



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(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.I have considered the matter in the light of the submissions made by both the parties and perused the records.



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6. On a perusal of records, it reveals that the case has been registered based on the complaint lodged by one Krishnaleela, who is working at ESAF (Evanchalical Social Action Form). In that finance company, the petitioner and another accused person had obtained a loan. Therefore, for non-repayment of the loan, in order to collect the loan amount, the complainant, on 21.09.2019 went to petitioner's house, where the second accused/Theiva Nayagi was also present, while demanding the repayment of the money. The accused persons abused the complainant with filthy languages and assaulted her with iron rod and also pulled her down. Therefore, she sustained grievous injury on her leg also another accused/Theiva Nayagi also assaulted and caused injury. This petitioner along with another accused is prosecuted for having caused injuries to the complainant for the offence punishable under Section 294(b), 323, 326 and 506(2) of IPC.

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



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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 this stage, it cannot be quashed. Therefore, I find no merit in this criminal original petition and the same is dismissed. However, the Additional Mahila Court, Nagercoil, Kanyakumari, is directed to complete the trial within a period of four months from the date of receipt of a copy of this order.

9.Consequently, the connected miscellaneous petitions are closed.

29.06.2022

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



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V.SIVAGNANAM, J.

lr

To

1. The Additional Mahila Court,
Nagercoil, Kanyakumari.

2.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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