



**Crl.O.P.(MD) No.12080 of 2022**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED: 05.07.2022**

**CORAM**

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

**CRL.O.P (MD) No.12080 of 2022**

**and**

**CrL.M.P(MD) No.7636 of 2022**

Dr.B.Justus Rabi @ Justice Rabbi

... Petitioner

Vs

1.The State of Tamil Nadu

Represented by  
The Inspector of Police,  
Oddanchatram Police Station,  
Dindigul – Bangalore Road,  
Dindigul – 624 619  
Ref: Crime No.266 of 2022

2. Dr. T.Michael N.Kumar

Secretary of Christian Education Health &  
Development Society,  
Shanthipuram, Ambilikkai,  
Palani – Dindigul Main Road,  
Oddanchatram,  
Dindigul District – 624 619.

... Respondents/Complainants

**PRAYER:** Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records relating to the proceedings of the FIR in Crime No.266 of 2022, dated 24.04.2022, and quash the same registered



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against the petitioner at Oddanchatram Police Station, Dindigul District, under Sections 408 & 381 of the Indian Penal Code, 1860 and all consequential proceedings arising there from.

For Petitioner : Mr.K.Newlin Frederick

For R1 : Mr.M.Sakthi Kumar  
Government Advocate (Crl Side)

### **ORDER**

This Criminal Original Petition has been filed to quash the FIR in Crime No.266 of 2022, on the file of the first respondent.

2. The learned counsel for the petitioner submitted that the petitioner was appointed as the Principal of the Christian College of Engineering and Technology, run by Christian Education Health & Development Society which is functioning at Dindigul District, vide appointment order dated 30.05.2019. He further submitted that on completion of his probation period, the said college assessed his performance and confirmed his service with effect from 01.06.2020 and confirmation order was issued to the petitioner only on 30.10.2020. While things stood thus, vide an order passed by Anna University, Chennai, dated 16.06.2021, bearing Lr.No.



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178/CA1/AU/2021, the petitioner was debarred from holding any position in any of the institutions affiliated under the said University on a frivolous ground alleged to be in violation of the Anna University's norms for guide/supervisor. The petitioner challenged the said order of the Anna University before this Court in W.P.No.13362 of 2021 and by order dated 30.06.2021, the said debarred order of the Anna University was stayed by this Court and the said stay order was made absolute by this Court order dated 15.07.2021. Thereafter, he continued in the post as on 02.05.2022. The petitioner received termination order from the administration and also issued notice to hand over on 05.05.2022. In the meantime, the said discharge order was against law. The petitioner had immediately approached this Court challenging the said discharge order and he has filed a Writ Petition in W.P(MD) No.9613 of 2022. This Writ Petition came up for admission on 11.05.2022 and the same is still pending before this Court. He further submitted that vide reply, dated 13.05.2022, issued through his counsel, the petitioner had issued a fitting reply to the allegations of the said college in its notice dated 05.05.2022. Further, the petitioner called upon the management of the said college to preserve the CCTV footage from 02.05.2022 vide the said reply notice. The petitioner received a letter from



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the defacto complainant via email on 13.05.2022 admitting that the defacto complainant had opened the Principal's chamber on 12.05.2022 and further stated that the educational certificates of the staffs and the CCTV footage are missing. Further, the petitioner issued a fitting reply to the defacto complainant via email on 18.05.2022. Further notice in the above said writ petition was also sent to the said college on 18.05.2022. He further submitted that, having received the said reply notices dated 13.05.2022 and 18.05.2022 and the notice in the writ petition dated 18.05.2022, knowing fully well that no documents or certificates of the staffs of the said college or that of the said college are available with the petitioner, the defacto complainant gave a complaint against the petitioner, for which, the first respondent registered an FIR in Crime No.266 of 2022, dated 24.05.2022. Seeking to quash the said FIR, the petitioner has filed the present Criminal Original Petition.

3. The learned Government Advocate (Criminal Side) appearing for the first respondent submitted that the investigation is under progress and CCTV footages are verified and it is in initial stage.



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4. I have considered the submissions 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.

(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



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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, on a perusal of the impugned F.I.R in crime No.266 of 2022 on the file of the Inspector of Police, Oddanchatram Police Station, Dindigul District, for the offences under Sections 408 and 381 I.P.C., it is seen from the records that it is not disputed that the petitioner was appointed as the Principal of the Christian College of Engineering and Technology, run by Christian Education Health & Development Society which is functioning at Dindigul District, vide an appointment order, dated 30.05.2019. He further submitted that on completion of his probation period, the said college assessed his performance and confirmed his service with effect from 01.06.2020 and confirmation order was issued to the petitioner only on 30.10.2020. While things stood thus, vide an order passed by Anna University, Chennai dated 16.06.2021, bearing Lr.No. 178/CA1/AU/2021, the petitioner was debarred from holding any position



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in any of the institutions affiliated under the said University on a frivolous ground alleged to be in violation of the Anna University's norms for guide/supervisor. The petitioner challenged the said order of the Anna University before this Court in W.P.No.13362 of 2021, dated 30.06.2021 and the administration also terminated his service, by order dated 02.05.2022. Thereafter, the case has been registered. The petitioner disputed the allegations in the FIR and it is not enough to quash the FIR and the investigation has to be continued to evolve truthfulness and at this initial stage, FIR cannot be quashed and this Court finds no merit in this petition.

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 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



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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.

8. 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 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.



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9. 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.

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

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**05.07.2022**

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

1. The Inspector of Police,  
Oddanchatram Police Station,  
Dindigul – Bangalore Road,  
Dindigul – 624 619.
  
2. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**V.SIVAGNANAM, J.**

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