



Crl.O.P.(MD) No.11954 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.07.2022

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THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.11954 of 2022

and

CrL.M.P(MD) No.7560 of 2022

1. Ravi
2. Ramamoorthi
3. Selvaraj
4. Ashokan
5. Sathishsarma

... Petitioners/Accused No.1 to 5

Vs

1. The State Represented by
The Inspector of Police,
Chatrakudi Police Station,
Ramanathapuram District
Crime No.37 of 2019.

... 1st Respondent/Complainant

2. Baskaran

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in pursuant to the FIR in Crime No.37 of 2019 pending on the file of the first respondent police and quash the same.

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



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ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.37 of 2019 on the file of the first respondent.

2. The case of the petitioners, is as follows:

The defacto complainant has political motive and enmity with the petitioners herein since the last local body election. As a consequence, the petitioners did not want to celebrate the temple festival under the leadership of the defacto complainant and thereby, the petitioners herein threatened the temple priest and they have discussed to attack the defacto complainant nearby bus stop. In these circumstances, on 30.03.2019, at about 08.25 p.m some unidentified persons set fire to the stock and on enquiry, it came to know that the petitioners are in the occurrence place and scolded the defacto complainant by using filthy language and used unparliamentary words against him and asked him to go out of the said land and will see how he put up the fencing in the land. Moreover, the petitioners/Accused threatened the defacto complainant with dire consequences. Hence, the defacto complainant made a complaint before the first respondent police on



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03.04.2019 and a case was registered by the first respondent police in Crime No.37 of 2019 for the offences under Sections 294(b), 435 and 506(i) I.P.C.

3. The learned counsel for the petitioners submitted that the FIR in Crime No.37 of 2019 has been filed with huge delay and there is no overact attributed against the petitioners in the FIR to show that they have committed the alleged offence. Seeking to quash the said FIR, the petitioners have filed the present Criminal Original Petition.

4. The learned Government Advocate (Criminal Side) appearing for the first respondent submitted that the investigation is almost completed and after completion of the investigation, the charge sheet/final report will be filed.

5. I have considered the submissions of the learned counsel appearing for the petitioners and the learned Government Advocate (criminal side) appearing for the respondent police.



6. 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 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.



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7. In the case on hand, on perusal of the impugned F.I.R in Crime No.37 of 2019 on the file of the Inspector of Police, Chatrakudi Police Station, Ramanathapuram District, for the offences under Sections 294(b), 435 and 506(i) I.P.C, it is seen that on 30.03.2019 at about 08.25 p.m, some people set fire to the hut in front of the house of the defacto complainant which was witnessed by Ravichandran and his wife Gowri and they raised alarm and at that time, two persons ran away from the place. Hence, a complaint has been given and according to the learned Government Advocate, the investigation is almost completed and on completion of the investigation, the charge sheet/final report will be filed.

8. 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



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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 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.

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 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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10. In these circumstances, this Court is of the view that since the investigation is almost completed, FIR cannot be quashed and there is no merit in this petition. Hence, this Criminal Original Petition is dismissed. The respondent police is directed to file the final report within a period of two months from the date of receipt of a copy of this order. Consequently connected miscellaneous petition is closed.

05.07.2022

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

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



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V.SIVAGNANAM, J.

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ORDER IN
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