



Crl.O.P.(MD) No.11575 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.11575 of 2022

and

Crl.M.P(MD) Nos.7301 and 7302 of 2022

Muthumani,

: Petitioner

Vs

1. State represented by
The Inspector of Police,
Vaalinoikkan Police Station,
Ramanathapuram District.

2. Maneeshwararaja,
Passport Officer,
Bharathi Ula Street,
Race Course Road,
Madurai District.

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records in connection with the impugned charge sheet in C.C.No.3 of 2020 dated 11.01.2020, on the file of the District Munsif Cum Judicial Magistrate, Kadaladi, Ramanathapuram District and quash the same.



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For Petitioner : M/s.Pandian M,

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.3 of 2020, on the file of the learned District Munsif Cum Judicial Magistrate, Kadaladi, Ramanathapuram District

2.The learned Counsel appearing for the petitioner submitted that the petitioner has been prosecuted by the respondent police for the offences under Sections 465, 468, 471 of IPC r/w 121 of Indian Passport Act, 1967. Further he stated that the respondent police filed charge sheet before the learned District Munsif Cum Judicial Magistrate, Kadaladi, Ramanathapuram and the same has been taken on file in C.C.No.3 of 2020. The petitioner is a practising advocate. But, no witness stated against the petitioner about the preparation of false Transfer Certificate. Therefore, he pleaded to quash the criminal proceedings.

3.The learned Additional Public Prosecutor submitted that on



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21.02.2013, the first accused applied for passport to the complainant. On verification of the genuineness of the Transfer Certificate, the passport officer found that the certificate was bogus one and it was sent to the Headmaster of Opilan Panchayat Elementary School, for that, the Headmaster also stated that the alleged Transfer Certificate was not issued by the said School. Hence, he forwarded the complaint to the police for taking action. Based on that, an FIR has been registered in Crime No.3 of 2022 and then, the first accused was arrested. Further, he stated that in the confession statement, the first accused disclosed the fact that the second accused, after receiving the Rs.2,000/- from the first accused, gave the bogus Transfer Certificate. Hence, the police prosecuted the second accused along with the first accused. Further, the case is posted on 24.08.2022, for prosecution of witnesses.

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:-



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(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



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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.

6.On a perusal of the records, it reveals that the petitioner is a one of the accused person in C.C.No.3 of 2020, on the file of the learned District Munsif Cum Judicial Magistrate, Kadaladi, Ramanathapuram District. The



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records further reveals that the first accused applied for passport to the complainant, on 21.02.2013. He sent the application along with Transfer Certificate as he stated the school name as Opilan Panchayat Elementary School. On verification of the application and certificate, the passport officer suspected the genuineness of the Transfer Certificate. Hence, he forwarded the Transfer Certificate to the Headmaster, Opilan Panchayat Elementary School and in turn, the Headmaster replied that the Transfer Certificate was not issued by the said School. Therefore, the passport officer gave the complaint to the respondent police. Based on that complaint, the case has been registered in Crime No.3 of 2022, for the offences under Sections 465, 468, 471 of IPC r/w 121 of Indian Passport Act, 1967. During the course of investigation, the respondent police arrested the first accused, who applied for passport along with Transfer Certificate. On enquiry, he disclosed that the second accused, after receiving Rs.2,000/- from the first accused, gave the bogus Transfer Certificate. Based on that, the respondent police prosecuted the second accused also. This fact is disputed by the petitioner. But, it has to be decided by letting prosecution witnesses before the trial Court. The trial Court posted the case for prosecution of witness.



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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 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.

9. However, the learned Counsel appearing for the petitioner submitted that the personal appearance of the petitioner before the trial Court may be dispensed with.

10. I have considered the submission. The personal appearance of the petitioner before the trial Court is dispensed with a condition that the petitioner should appear before the trial Court, whenever require for further proceedings.



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11. Consequently, the connected miscellaneous petitions are closed.

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Internet: Yes
Index: Yes/No
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V.SIVAGNANAM, J.

lr

To

1.The Inspector of Police,
Vaalinoikkan Police Station,
Ramanathapuram District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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