



Crl.O.P.(MD) No.12167 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.08.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.12167 of 2022

and

Crl.M.P(MD) No.7692 of 2022

1. Raja @ Natarajan

2. Nimalan

... Petitioners/Accused No.1 & 2

Vs

1. The State Through its
The Inspector of Police,
Silaiman Police Station,
Madurai District.
(Crime No.164 of 2022)

... 1st Respondent/ Complainant

2. Jeyachandran

... 2nd Respondent/ Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in Crime No.164 of 2022, on the file of the first respondent police and quash the same.

For Petitioners : Mr.T.A.Ebenezer

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

For R2 : Mr.K.Jeyamohan



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ORDER

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This Criminal Original Petition is filed to quash the F.I.R in Crime No.164 of 2022, on the file of the first respondent police and quash the same.

2.The case of the prosecution is that the petitioners abused and threatened the defacto complainant through phone. Hence, the defacto complainant gave a complaint to the first respondent police. Based on the complaint, the respondent police registered a case in Crime No.164 of 2022, for the offences under Sections 294(b) and 506(i) of I.P.C.

3. The learned counsel for the petitioners submitted that the allegation against the petitioners is that they abused and threatened the defacto complainant through phone No. 6382187114 and phone No. 9659399383. But the cell phones were not belonged to the petitioners. Therefore, he pleaded to quash the F.I.R.



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4. The learned counsel appearing for the second respondent/ defacto complainant submitted that the above said phone numbers were used by the petitioners.

5. The learned Government Advocate (Criminal Side) appearing for the first respondent submitted that the case is under investigation and to get a report from the Cell Phone Tower Department, Cyber Crime, to ascertain to alleged Phone No.6382187114 belongs to whom and the phone No. 6382187114 belongs to one N.U.Eswaran, S/o. Ulaganathan, No.5/2106, II Street, Sowrastrapuram, Vandiyoor, Madurai and another Phone No. 9659399383 belongs to Nimalan. He further submitted that now the cell phone is used by the petitioners and to find out the truth of the allegation contained in the FIR, the case has to be investigated.

6. I have considered the submissions made by the learned counsel appearing on either side.

7. A perusal of the records, it reveals that the defacto complainant gave a complaint on 24.05.2022 and the allegation in the complaint is that



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on 23.05.2022, at about 7.57 p.m he received a phone call from 6382187114 and threatened him with filthy language and also another call from another phone No.9659399383. Therefore, he gave a complaint and a case has been registered in Crime No. 164 of 2022, for the offences under Sections 294(b), 506(i) I.P.C. Now, the petitioners have disputed that the two phone numbers are not belong to them and they were not used phone numbers. A verification of Cyber Crime Police report that the phone No. 6382187114 was registered the name of N.U.Eswaran, Madurai and the phone number in the name of N.U.Eswaran is used by the petitioners another Phone No.9659399383 belongs to Nimalan, which is now prosecuted. Therefore, to find out the truthfulness of the allegations, the investigation has to be completed. At the beginning stage of the investigation this petition, is filed to quash the FIR Therefore, this case is not proper to go in to the parameters laid down by the Hon'ble Supreme Court of the case of *State of Haryana and Ors vs Ch.Bhajan Lal and Ors* and *Neeharika Infrastructure Pvt.Ltd vs State of Maharashtra and others* reported in **2021 SCC On line SC 315.**



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8. In view of the above, I find that the investigation cannot be completed at the beginning stage and to find out the truthfulness of the allegation, the FIR has to be investigated. A reading of the FIR in this petition, *prima facie* offence is made out. Therefore, there is no merit in this petition. Accordingly, this Criminal Original Petition is dismissed. The Investigating Officer is directed to investigate the case in Crime No.164 of 2022, and to complete the investigation and file a final report. After filing the final report, it is open to the petitioner to challenge the final report. Consequently, the connected Miscellaneous Petition is closed.

24.08.2022

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

1. The Inspector of Police,
Silaiman Police Station,
Madurai 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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