



CrI.O.P.(MD) No.11940 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrI.O.P.(MD) No.11940 of 2022

and

CrI.M.P.(MD).No.7546 of 2022

Rajapandi

... Petitioner/Accused No.3

Vs.

1.The Inspector of Police,
District Crime Branch,
Virudhunagar District,
(Crime No.10 of 2020).

...1st Respondent/Complainant

2.Kannan

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to the F.I.R. in Crime No.10 of 2020 on the file of the first respondent and quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.S.Anandha Rajagopal

For R-1 : Mr.M.Sakthi Kumar,
Government Advocate,
(Criminal Side).



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ORDER

The Criminal Original Petition has been filed to quash the F.I.R. in Crime No.10 of 2020 on the file of the first respondent.

2. The learned counsel for the petitioner submitted that a case has been registered against the petitioner by the second respondent in Crime No.10 of 2020. The petitioner is working as a driver to the Inspector of Police of Irukkankudi Police Station, now working as driver to the Deputy Superintendent of Police. According to the defacto complainant, this petitioner introduced one Saravanakumar, as he was working as P.R.O in Chennai and he assisted people in getting more Government tenders and Government jobs. By believing the words, various persons paid the amount to the tune of Rs.2,73,50,000/- (Rupees Two Crores Seventy Three Lakhs Fifty Thousand only). Thereafter, they found that they have cheated, hence the complaint. The learned counsel for the petitioner submitted that there is no allegations that the petitioner Rajapandi received any amount from the defacto complainant. Hence he pleaded to quash the F.I.R.



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3. The learned Government Advocate (Criminal Side) appearing for the second respondent submitted that the second accused namely, Thiruvalluavanon filed a Crl.O.P.(MD).No.17869 of 2021 and this Court directed the respondent Police to complete the investigation within (2) two weeks and file final report. Totally in this case, out of 62 victims, 50 victims have been examined and remaining persons have to be examined. After examining the witnesses, the Police will file a final report.

4. I have considered the matter in the light of the submission made by learned counsel for both the parties and perused the records.

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:-



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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



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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.

6. Perusal of the records reveals the fact that the defacto complainant was working as a contractor from the year 2005 and he know the petitioner who has been working as a driver in the Police Department and the petitioner introduced one Saravana Kumar of



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Chennai, though he was working as P.R.O and able man to get many Government contracts and Government jobs. On his assurance, the defacto complainant introduced many people and on 26.08.2017, for getting teacher post, they paid the amount to the three accused namely, Saravanakumar, Thiruvalluvan and Rajapandi, the petitioner herein at the residence of Saravanakumar mother-in-law and thereby, totally the accused persons received the amount to the tune of Rs.2,73,50,000/- (Rupees Two Crores Seventy Three Lakhs Fifty Thousand only) from the affected persons on the assurance of getting Government jobs and contracts, thereby, cheated all the persons. Under these circumstances, the investigation has to be done. Further, this Court directed the respondent Police in Crl.O.P.(MD).No.17869 of 2021 to complete the investigation within a specific period. Under these circumstances, it is inappropriate to quash the proceedings at the initial stage of investigation. Hence I find no merits in this case.

7. On perusal of impugned F.I.R, it is seen that the allegation therein would *prima facie* make out a case for investigation by the police authority.



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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 not 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 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.



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9. The Investigating Agency should have the freedom to go into the whole gamut of the allegations and to reach a conclusion of its own. It is not appropriate to quash the complaint since this Court finds no merit in this case.

10. 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.

11. 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.



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12. 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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Internet: Yes
Index: Yes/No
Speaking/Non speaking order
Nsr

To

1. The Inspector of Police,
District Crime Branch,
Virudhunagar District,
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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V.SIVAGNANAM, J.

Nsr

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