



CRL.O.P(MD)No.14409 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.08.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P(MD)No.14409 of 2022

and

CrI.M.P(MD)No.9298 of 2022

M.Anandakumar

... Petitioner

VS

1. The Sub Inspector of Police
Kenikarai Police Station
Ramanathapuram District

2. The Deputy Superintendent of Police
Ramanathapuram

3. Vikkiramathithan

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in connection with the FIR in Crime No.612 of 2017 pending on the file of the first respondent police and quash the same as against the petitioner alone.

For Petitioner : Mr.P.Muthusamy

For R1 :Mr.A.Sakthikumar

Government Advocate(CrI.Side)



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ORDER

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This criminal original petition has been filed seeking to quash the FIR in Crime No.612 of 2017 pending on the file of the respondent police

2.The learned counsel for the petitioner at the time of registration case, the case has been registered for the offences under Sections 341,294(b),324 of IPC and Section 3(1)(x) of SC/ST(POA) Act and subsequently after investigation the offence under Section 3(1)(x) of SC/ST(POA) Act has been removed. In the complaint, the names of the petitioner is not mentioned, subsequently the present accused has been added, hence he seeks to quash the proceedings.

3.The learned Government Advocate (Crl.side) appearing for the respondent police would submit that the case has been registered on the complaint given by one Vigramathithan on 20.10.2017 for the offences under Sections 341,294(b),324 of IPC and Section 3(1)(x) of SC/ST(POA) Act in Crime No. 612 of 2017 and after investigation the accused persons were identified. The petitioner is the accused and after investigation the offence under Section 3(1)(x) of SC/ST(POA) Act has been removed by an



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alteration report dated 21.10.2017 and now the case is under investigation.

In this case there is specific allegation that the accused assaulted the complainant with iron rod and he sustained injuries, therefore at the initial stage of investigation it is not proper to quash the case and hence pleaded to dismiss the same.

4. I have considered the submission 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 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 record reveals the fact that this case is registered on the complaint given by one Vigramathithan on 20.10.2017 in Crime No. 612 of 2017. After investigation the offence under Section 3(1)(x) of SC/ST(POA) Act has been removed. Further the complainant had stated that on 20.10.2017 at about 04.30 pm., when the complainant was returning from petrol bunk four persons prevented him and when he asked why they are preventing him, the four persons assaulted him with iron rod, due to which he sustained injuries on his head and another driver also sustained



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injuries on his head and after threatening him four persons escaped from the place and the injured person was admitted in the hospital. Therefore the allegation prima facie shows the commission of offence, hence it has to be investigated to find out the truth.

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 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



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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.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.

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. 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.

11. Therefore this case is liable to be dismissed, since it does not satisfy the parameter laid down by the Hon'ble Supreme Court in the ***State of Haryana vs. Ch. Bhajan Lal*** reported in ***(AIR) 1992 SC 604***.

12. In the light of the above factual and legal positions, this Criminal Original Petition is dismissed. Consequently connected miscellaneous petition is closed. Further the respondent police is directed to complete the investigation and file the final report before the concerned Court within a period of three months from the date of receipt of a copy of this order. Consequently connected miscellaneous petition is closed.

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Internet: Yes./No

Index: Yes/no

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To

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1. The Sub Inspector of Police
Kenikarai Police Station
Ramanathapuram District
2. The Deputy Superintendent of Police
Ramanathapuram
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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V.SIVAGNANAM, J.

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