



CrI.O.P.(MD) No.14694 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.08.2022

CORAM:

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

CrI.O.P.(MD) No.14694 of 2022

and

CrI.M.P.(MD) Nos.9536 and 9537 of 2022

Surulivel @ Amsan,

: Petitioner

Vs

1.The State represented by
The Inspector of Police,
Odaipatti Police Station,
Theni District.
Crime No. 177 of 2018.

2. Selvakumar,

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records in S.C No. 94 of 2021 on the file of the Sub Court, Uthamapalayam, Theni district and quash the same .



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For Petitioner : Mr. Muniyandi.S,

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 S.C No. 94 of 2021, on the file of the Sub Court, Uthamapalayam, Theni district.

2.The learned Counsel appearing for the petitioner submitted that there is a motive between the petitioner and the defacto complainant. The alleged occurrence is a false one and the assault made by the petitioner is also not dangerous to take the life of the complainant. Therefore, the offences under Sections 307 and 506(2) IPC will not be made out. Hence he pleaded to quash the charge sheet in S.C No. 94 of 2021, on the file of the Sub Court, Uthamapalayam, Theni district.

3.The learned Additional Public Prosecutor objected the submission made by the learned Counsel appearing for the petitioner and stated that in this case, the complainant sustained injuries. It is supported by the Witness



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No.12/Dr.Suganthy, who treated the injured person and with regard to motive, it has to be adjudicated before the trial Court. Further, he submitted that before the commencement of the trial it is not proper to quash the proceedings and pleaded to dismiss this petition.

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:-

(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.



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(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



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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.

6.On a perusal of records, it is seen that the petitioner assaulted the complainant with Aruval, abused him with filthy language and also threatened him with dire consequences. The complainant sustained grievous injury on his left shoulder, left chest, left Back side, left hand and left side of the neck.

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



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no merits in the Criminal Original Petition.

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8.At this stage, it cannot be quashed. Therefore, I find no merit in this criminal original petition and the same is dismissed. Consequently, the connected miscellaneous petitions are closed.

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Internet: Yes
Index: Yes/No
Speaking/Non speaking order
lr



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V.SIVAGNANAM, J.

lr

To

1.The Inspector of Police,
Odaipatti Police Station,
Theni District.

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

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