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CRL.O.P(MD)No.14693 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.08.2022

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THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P(MD)No.14693 of 2022

S.Kamalraj,

: Petitioner

Vs

1.The State of Tamilnadu
Represented by
The Inspector of Police,
Pavoorchatram Police Station,
Tenkasi District.

2. Agnesrani,

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C,
praying to call for the records in FIR No. 224 of 2022, on the file of the
Pavoorchatram Police station, Tenkasi district and quash the same.

For Petitioner : Mr.Gopalakrishnan.P,
For R1 : Mr.M.Sakthi Kumar
Government Advocate (Crl.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. 224 of 2022, on the file of the Pavoorchatram Police station, Tenkasi district.

2.The learned counsel for the petitioner submitted that the petitioner herein is the eighth accused and he was implicated in this case based on the confession statement of Accused No.1. Other than this, there is no material against the petitioner. Hence, he pleaded to allow this petition.

3.The learned Government Advocate (Crl.side) appearing for the respondent police submitted that the case in Crime No.224 of 2022 has been registered, for the offences under Sections 342, 394 IPC, based on a complaint given by second respondent and in the complaint, it is alleged that some un-identified persons stolen the jewels and other articles worth about Rs.24,70,000/- and also caused certain injuries to her parents. The case is under investigation. Further, he pleaded that the investigation has to be continued to unearth the truth and it is not proper to quash the investigation at this initial stage.



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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.



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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 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.On a perusal of records, it is seen that on 30.06.2022 at about 10 pm, the complainant returned to her home, she found that her house was opened, her parents were tied with nylon ropes and her father's face was also covered with his Dhoti. Further, all the rooms were broken, her parents sustained injuries and they were found with bleeding. Immediately, they were admitted in the hospital and also found that the jewels and other articles worth about Rs.24,70,000/- were missing in the complainant's house. Then, she lodged a complaint on 01.07.2022, for which, an FIR has been registered in Crime No.224 of 2022.

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.

9.The Investigating Agency should have the freedom to go into the



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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 interference 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 expeditiously 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.

17.08.2022

Internet:Yes./No

Index:Yes/no

lr

To

1.The Inspector of Police,
Pavoorchatram Police Station,
Tenkasi District.

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



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V.SIVAGNANAM, J.

lr

ORDER IN
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