



CRL.O.P(MD)No.18256 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 07.07.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P(MD)No.18256 of 2021

and

CrI.M.P(MD)No.10031 of 2021

1.L.Thulasiram

2.T.Praveen Kumar

3.T.Loganathan

... Petitioners/Accused Nos.1 to 3.

Vs

1.The Inspector of Police,
D-1 Tallakulam Police Station,
Madurai City,
Madurai.

(In Crime No.2137 of 2020)

...1st Respondent/ Complainant

2.R.Thirumalaimuthu

... 2nd Respondent/De-facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records relating to the case in Crime No.2137 of 2020 on the file of the first respondent and to quash the same.



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For Petitioner : Mr.R.Saravana Kumar

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

For R-2 : Mr.J.Lawrance

ORDER

This criminal original petition has been filed seeking to quash the FIR in Crime No.2137 of 2020 on the file of the respondent Police.

2. The learned counsel for the petitioner submitted that the complainant Thirumalaimuthu Son of Rajan trespassed into the properties of the petitioner and created problem and gave a complaint falsely against the petitioners. A case has been registered in Crime No.2137 of 2020 for the alleged offences under Sections 448, 294(b), 323, 506(ii) IPC and he pleaded to quash the criminal proceedings.

3. The learned counsel for the second respondent submitted that there is a specific allegations attributed against the petitioners. All are assaulted



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the second respondent with knife and he sustained injuries and took treatment in the hospital. Under these circumstances, the investigation is pending and it cannot be quashed.

4.The learned Government Advocate (Criminal Side) appearing for the respondent police submitted that the investigation almost completed and now, it is ready for filing final report.

5. 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 and the learned counsel appearing for the second respondent.

6. 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



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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.

7. On perusal of impugned F.I.R, prima facie it is seen that there is an allegations of assaulting the complainant by the accused with hands and knife and now the investigation is almost completed and awaiting for filing final report. Under these circumstances, it is inappropriate to quash the F.I.R and investigation. Therefore, I find no merits, any how, since the



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investigation is completed and awaiting for filing final report, the first respondent herein is directed to file a final report within a period of one (1) month from the date of receipt of a copy of this order.

8. In view of the above, this Criminal Original Petition stands closed.

Consequently connected miscellaneous petition is closed.

07.07.2022

Internet: Yes./No

Index: Yes/no

Nsr

To

The Inspector of Police,
D-1 Tallakulam Police Station,
Madurai City,
Madurai.

Copy To

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



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V.SIVAGNANAM, J.

Nsr

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