



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.20155 of 2021

and

Crl.M.P (MD)No.11375 of 2021

Christo Samraj

... Petitioner

Vs.

1. The State represented by,
The Inspector of Police,
Sawyerpuram Police Station,
Thoothukudi District.
(Crime No.87 of 2021)

... 1st Respondent/
Complainant

2. Christybai Deletta

... 2nd Respondent/
Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to the FIR in Crime No.87 of 2021 on the file of the first respondent police and quash the same as illegal.

For Petitioner	:	Mr.J.Jeyakumaran
For R - 1	:	Mr.K.Sanjai Gandhi Government Advocate (Crl. Side)
For R - 2	:	Mr.S.Panneer Selvam (No appearance)

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.87 of 2021 on the file of the first respondent police against the petitioner.

2.The case of the prosecution is that the defacto complainant is a tenant under the petitioner and she paid Rs.600/- per month as rent. Since the petitioner is residing at Hosur, she paid the monthly rent through online. The petitioner is having 10 portions in single house and all were leased out to the third parties. The defacto complainant's husband was collecting rent from the tenants and deposited in the Bank account of the petitioner. While so, the petitioner insisted the defacto complainant to vacate the house and locked their house. In the mean while, on 03.04.2021, the petitioner blocked the door with red bricks and abused the defacto complainant with filthy language and threatened with dire consequences. Hence,



the present FIR was registered by the first respondent as against the petitioner.

3. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the first respondent.

4. Though notice has been served on the second respondent and the learned counsel also entered appearance on behalf of the second respondent, none appeared on behalf of the second respondent.

5. On a perusal of the impugned F.I.R registered in Crime No.87 of 2021 for the offences under Sections 294(b), 339, 441, 506 (ii) of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002, revealed that the occurrence took place on 03.04.2021 at about 08.30 hours. If at all any occurrence took place as alleged by the second respondent on 03.04.2021, at about 08.30 hours, it could have been expressed by her husband before the first respondent on 03.04.2021 at the time of enquiry conducted by the first respondent on the complaint lodged by the petitioner. There is no whisper about the alleged occurrence by her husband during the enquiry conducted by the first respondent on 03.04.2021. That apart, the alleged occurrence took place on 03.04.2021 and the complaint lodged by the second respondent only on 18.04.2021. There is absolutely no explanation by the second respondent for belated complaint, that too, after 15 days. The entire allegations are trivial in nature and it is after taught. On the enquiry conducted on 03.04.2021, the defacto complainant's husband agreed to settle the amount before the first respondent to the petitioner herein. Therefore, only to escape from the clutches of law, after 15 days from the date of occurrence, namely, 03.04.2021, the complaint was lodged by the second respondent. Therefore, the entire case is actuated by malice and it has no legs to stand further.

6. In this regard, it is relevant to cite the judgment of the Honourable Supreme Court reported in **1992 Supplement 1 SCC 335 - State of Haryana and others Vs. Bhajan Lal and others**, para 102 which enumerates 7 categories of cases where power can be exercised under Section 482 of Cr.P.C is extracted as follows:

"102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised



either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

(1) Where the allegations made in the first information report or 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 a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the Act concerned (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the Act concerned, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fides and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

Considering the aforesaid Judgment, the FIR itself is nothing but clear abuse of process of law and the same is liable to be quashed.



7. Accordingly, this Criminal Original Petition stands allowed and as a sequel, the FIR in Crime No.87 of 2021 on the file of the first respondent police is quashed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1. The Inspector of Police,
Sawyerpuram Police Station,
Thoothukudi District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.J.JEYAKUMARAN, Advocate (SR-6563[F] dated 16/02/2022)

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SAR(CO)

KB(04.03.2022) 4P 4C