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Crl.O.P.No.6907 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.6907 of 2022

Sheik Haneef

... Petitioner

-Vs-

1. The State represented by
The Inspector of Police,
Kangayam Police Station,
Tiruppur District.

2. Shameer

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the records in Crime No.88 of 2021 on the file of respondent police and quash the same in as much as against the petitioner.

For Petitioner : Mr.V.Maharaja

For R1 : Mr.A.Gopinath
Government Advocate (Crl.side)

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.88 of 2021 on the file of respondent police.



Crl.O.P.No.6907 of 2022

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) for the first respondent and perused the materials available on record.

3. The case of the prosecution is that the petitioner is manufacturing and selling the poultry feeding at Palladam in the name and style of M/s Star Enterprises and M/s Hafsa Enterprises. The second respondent, being native of Kerala used to purchase the poultry feed from the petitioner. The second respondent purchased the poultry feed for a sum of Rs.37,19,905/- with a promise to pay. When it was questioned by the petitioner, the second respondent did not repay the same. Therefore, the petitioner kidnapped him for ransom. Hence, the complaint.

4. On receipt of the complaint, the first respondent registered an FIR in Crime No.88 of 2021 for the offence under Section 363 of IPC.

5. A perusal of records revealed that the second respondent owes money to the tune of Rs.37,19,905/-. In order to escape from the said liability, the second respondent lodged a complaint, as if the petitioner kidnapped the second respondent. There is no specific overtact to attract the offence under Section 363



Crl.O.P.No.6907 of 2022

of IPC as against the petitioner. Only in order to wreck vengeance against the petitioner, the second respondent has lodged this present complaint.

6. In this regard, it is relevant to extract the judgment reported in **(1992) SCC CrL. 426** in the case of **Bajanlal v. State of Haryana**, wherein the Hon'ble Supreme Court of India has listed out the following category of case in which the criminal proceedings can be quashed using the inherent jurisdiction of the High Court under Section 482 Cr.P.C.:

"102.....

.....

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

7. Therefore, the registration of FIR is nothing but a clear abuse of process of law and it cannot be sustained as against the petitioner and it is liable to be quashed. Accordingly, the FIR in Crime No.88 of 2021 on the file of respondent police, is hereby quashed.

8. Accordingly, this Criminal Original Petition stands allowed.



WEB COPY



Crl.O.P.No.6907 of 2022

01.12.2023
(2/2)

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
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To

1. The Inspector of Police,
Kangeyam Police Station,
Tiruppur District.
2. The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN. J.



WEB COPY



Crl.O.P.No.6907 of 2022

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Crl.O.P.No.6907 of 2022

01.12.2023