



WEB COPY

Crl.O.P.No.14826 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2023

CORAM

THE HONOURABLE DR.JUSTICE G. JAYACHANDRAN

Crl.O.P.No.14826 of 2022

and

Crl.M.P.No.8244 of 2022

1.Udhayakumar
2.Susila
3.Balraj
4.Johnson Vincent

... Petitioners

Vs.

1.State rep. by its
Inspector of Police,
All Women Police Station, Guindy,
Chennai – 600 002,
Crime No.581 of 2020

2.Mythili

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, calling for the records relating to FIR in Crime No.3 of 2022 on the file of the Inspector of Police, All Women Police Station, Guindy, Chennai and quash the same.



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Crl.O.P.No.14826 of 2



For Petitioners	: Mr.R.Shivakumar for M/s.K.M.Vijayan Associates
For Respondents	: Mr.Muniapparaj, Additional Public Prosecutor

ORDER

The Criminal Original Petition is filed to quash the FIR in Crime No.3 of 2022 on the file of the respondent police.

2. The learned counsel appearing for the petitioners submitted that due to matrimonial dispute between the first petitioner / Udaya Kumar and the defacto complainant / Mythili, a false complaint was lodged, as if there was demand of dowry and physical harassment. Pending disposal of the Quash Petition, the investigation was completed and the final report was filed before the IV Metropolitan Magistrate, Saidapet and the same is taken on file in C.C. No. 2021 of 2023.

3. The learned counsel appearing for the petitioners submitted that Hon'ble Supreme Court in a case of *Abishek -vs- State of Madhya Pradesh* in Criminal Appeal No. 1457 of 2015 had considered a case in similar nature



and observed that even if the final report is filed, the power of High Court to exercise its inherent power under Section 482 of Cr.P.C will not be taken away and therefore, urged this Court to consider the petition to quash the FIR, since it is a malicious prosecution.

4. No doubt, this Court has the power under Section 482 of Cr.P.C., which can be exercised to prevent miscarriage of justice. At times, in case of the matrimonial dispute, unconnected persons are roped as accused to settle a score or with malicious intentions. Therefore, it is all based on the facts of individual case and if the petitioner, who is now facing the trial before the Metropolitan Magistrate in C.C. No. 2021 of 2023 intend to challenge the said prosecution, he has to file a fresh petition with necessary grounds, which would satisfy the parameters of the Hon'ble Supreme Court laid in the case of *State of Haryana and others -vs- Bhajan Lal and others* reported in [(1992) Supp(1) SCC 335], which the learned counsel appearing for the petitioners has circulated for consideration. Based on the FIR, it is difficult for this Court to arrive at any conclusion, more so, when the Investigating Officer is the person competent to conduct investigation and to file final report, which has come to a *prima facie* conclusion that the case is made out for taking cognizance.



5. As a result, this Criminal Original Petition stands disposed of.

Consequently, the connected Criminal Miscellaneous Petition is closed.

18.10.2023

Index : Yes / No

Neutral Citation : Yes / No

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To

1.The Inspector of Police,
All Women Police Station, Guindy,
Chennai – 600 002.

2.The Public Prosecutor,
Madras High Court,
Chennai.



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Crl.O.P.No.14826 of 2



G. JAYACHANDRAN, J.

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