



WEB COPY



Crl.O.P.No.22308 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2023

CORAM:

THE HON'BLE MR.JUSTICE **SUNDER MOHAN**

Crl.O.P.No.22308 of 2019 and
Crl.M.P.No.11572 of 2019

1.Rajasekar
2.Ramalingam
3.R.Gomathi

... Petitioners

Vs.

P.Ravikanth

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the entire records pertaining to C.C.No.5063 of 2019 under the section 379 IPC pending on the file of the V Metropolitan Magistrate Court Egmore, Chennai and quash the same as illegal and devoid of merits.

For Petitioners : M/s.Adhinarayan Rao

For Respondent : No appearance

ORDER

This petition is filed to quash the private complaint in C.C.No.5063 of 2019 for the offence under Section 379 IPC.



2. It is alleged in the complaint that on 28.04.2019 at 5.30 a.m., the first petitioner who is the father-in-law of the complainant and the second petitioner is his brother had taken away the car which stood in the name of the complainant forcibly.

3. Learned counsel for the petitioners submitted that the respondent and the third petitioner/wife, who is the daughter of the first petitioner, had matrimonial disputes and the first petitioner's daughter had given a complaint against the respondent herein on 22.04.2019 stating that he had demanded dowry and that he had illicit relationship with another lady. The respondent appeared before the police and he requested time to offer his explanation. In the mean time, he had come up with this false case as if the petitioners had taken away the car belonging to him. It is further stated that the respondent lodged a complaint on 01.05.2019 to Sembium Police Station for the alleged occurrence on 28.04.2019. In the said complaint, the respondent police had not taken any action since the car was in possession of the respondent's wife and a matrimonial dispute between the respondent and the first petitioner's daughter was sought to be converted as a criminal case. Learned counsel further submitted that the second petitioner has nothing to with the family affairs and he has been implicated only to wreak vengeance.



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WEB COPY 4. Though notice was served on the respondent, none has appeared for the respondent.

5. This Court, on perusal of the impugned complaint finds that the respondent had appeared before the police for enquiry on the complaint given by the first petitioner's daughter/third petitioner herein. The impugned complaint relates to the occurrence that is said to have taken place on 28.04.2019. Admittedly, the respondent had approached the police only on 01.05.2019. There is no reason given for the delay in lodging the complaint before the police. It appears to be a matrimonial dispute between the respondent and the third petitioner and the said matrimonial dispute is now sought to be projected as a case of theft by the petitioners. The police had rightly refused to take action. The impugned complaint has been filed only as a retaliatory action to the complaint filed by the third petitioner herein. Further even otherwise the offence of theft would not be made out, if the wife had taken possession of the husband's car, unless it is shown that it was taken dishonestly. There is nothing in the complaint to suggest that it was taken dishonestly.



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WEB COPY 6. This Court finds that the impugned complaint is only to wreak vengeance and the dispute between the husband and wife is sought to be projected as a theft case against the wife and her relatives. Hence, the impugned complaint in C.C.No.5063 of 2019 on the file of the V Metropolitan Magistrate Court, Egmore, Chennai, is liable to be quashed. Therefore, it is quashed. This Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

20.03.2023

Index: Yes/No

Speaking / Non Speaking Order

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To

1. The V Metropolitan Magistrate Court,
Egmore,
Chennai

2. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J

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