



Crl.O.P.No.25209 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.08.2023

PRONOUNCED ON: 21.09.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.No.25209 of 2021

and

Crl.M.P.No.13945 of 2021

1.Rajagopal

2.Vasantharajan

...

Petitioners

/vs/

1.Inspector of Police

Ambur Town Police Station,

Ambur – 635 802.

2.Mala

...

Respondents

Prayer : Criminal Original Petition has been filed under Section 482 Cr.P.C. to call for the records in C.C.No.20 of 2021 on the file of the Additional District Munsif cum Judicial Magistrate, Ambur and quash the same.

For Petitioners

... Mr.Avinash Wadhwani
for Ms.V.Srimathi

For Respondent
No.1

... Mr.L.Baskaran
Govt. Advocate (Crl.side)

For Respondent
No.2

... Mr.P.Rajkumar



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ORDER

WEB COPY Challenging the criminal proceedings in C.C.No.20 of 2021 on the file of the Additional District Munsif cum Judicial Magistrate, Ambur, the present criminal original petition has been filed.

2.The prosecution case is that the defacto complainant Mala's brother K.Sivakumar is running a electronic shop at Ambur Bazaar in the name of Siva Electronics. On 25.04.2018 at about 11.20 a.m. the defacto complainant Mala was in the shop, at that time, the accused persons came in their car bearing registration No.TN 10 A 7465 Maruthi 800 and parked the car in front of the shop. One Haridoss worker of the shop approached the accused persons and requested to move the car. The accused persons scolded him. Again 11.40 a.m. another employee Manikandan approached the accused persons and requested to move the car in order to bring the goods into the shop. For that, the accused persons scolded and threatened. Thereafter, at about 11.45 a.m. the defacto complainant Mala approached the accused persons and requested to move the car, for that, the first accused threatened by using abusing languages and also pushed the defacto complainant and she fell down and sustained injuries. On seeing



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the same, her brother Sivakumar and her another brother's son Sarathkumar came and enquired and they were also pushed by the accused persons.

Thereafter, the defacto complainant gave the complaint before the respondent police. They have not taken any action. Therefore, she filed a private complaint before the trial Court. After recording the evidence of the complainant, the case was taken on file in C.C.No.20 of 2021 for the offences punishable under Sections 294(b), 323, 354 and 506(i) IPC, which is under challenge by the accused persons.

3.The learned counsel appearing for the petitioners/accused submitted that the petitioners are the first and second accused in C.C.No.20 of 2021 on the file of the Additional District Munsif cum Judicial Magistrate, Ambur. The first petitioner is working as a Inspector of Police, Kalasapakkam Police station and the second petitioner is his son. The allegation raised in the private complaint is a false one. The second respondent/defacto complainant's brother is running a electronic shop in Ambur Bazaar. On 25.04.2018, the petitioners parked their car partially in front of the shop, the defacto complainant requested them to remove the



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car from the place, thereby, quarrel raised between them and the defacto complainant's brother Sivakumar and another brother's son Sarathkumar damaged the car and assaulted the petitioners. In this regard, a case has been registered in crime No.188 of 2018 for the offences punishable under Sections 294 (b), 323, 392 IPC r/w Section 3 of the Tamil Nadu Public Property (Prvnt. Of Damage & Loss) Act, 1992.

4.Further, the learned counsel for the petitioner submitted that in order to escape from the case registered against the defacto complainant's brother Sivakumar and another brother's son Sarathkumar, the defacto complainant gave a complaint before the police, after enquiring, the police found it is a false allegation, hence, further action dropped. Therefore, the defacto complainant filed a private complaint before the trial Court. The learned Judge, without applying his mind and without assigning any valid reason, took cognizance of the private complaint on 10.02.2021, which is unsustainable and against the principles stated by the Supreme Court in non application of mind with taking cognizance of the criminal complaint. Therefore, the private complaint in C.C.No.20 of 2021 on the file of the



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Additional District Munsif cum Judicial Magistrate, Ambur, is liable to be quashed and thus, pleaded to quash the criminal proceedings against the petitioners.

5.The learned counsel appearing for the second respondent/defacto complainant submitted that the allegation raised in the complaint is genuine one. The first petitioner being a police officers threatening and assaulted the second respondent Mala and her brother and also caused injuries to the second respondent. Further, submitted that if there is no legal requirement that the trial Court should write an order showing the reasons for taking cognizance, Section 204 Cr.P.C not mandated to record detailed reasons. The Magistrate satisfied that there is a sufficient ground for proceedings and evidence is adequate for taking cognizance. The magistrate is competent to take cognizance at the stage of issuing process to the accused, the magistrate is not required to record reasons. To support his arguments, the learned counsel for the petitioner relied upon the judgment of the Hon'ble supreme Court in ***Special Leave Pettion (Crl.) 3978 of 1999 U.P.Pollution Control Board Vs. M/s.Mohan Meakins Ltd.,***



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and others and Appeal (Crl.)5 of 2000 Kanti Bhadra Shah and Anr Vs.

State of West Bengal.

6.The learned counsel further submitted that the power of quashing the criminal proceedings should be exercised very sparingly with circumspection, as it has been observed, in the rarest of rare cases and the Court will not justify and embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the complaint and the contention of the learned counsel for the petitioners does not meet the parameter laid down by the Hon'ble supreme Court in ***State of Haryana vs. Ch.BhajanLal (AIR 1992 SC 604)***.. Therefore, the criminal original petition has no merit and liable to be dismissed and thus, pleaded to dismiss the criminal original petition.

7. I have considered the matter in the light of the submissions made by the learned counsel for the parties and perused the materials available on record.



8.On perusal of the materials, it is seen that the defacto complainant

Mala's brother K.Sivakumar is running a electronic shop at Ambur Bazaar in the name of Siva Electronics. On 25.04.2018 at about 11.20 a.m. the defacto complainant Mala was in the shop, at that time, the accused persons came in their car bearing registration No.TN 10 A 7465 Maruthi 800 and parked the car in front of the shop. One Haridoss worker of the shop approached the accused persons and requested to move the car. The accused persons scolded him. Again 11.40 a.m. another employee Manikandan approached the accused persons and requested to move the car in order to bring the goods into the shop. For that, the accused persons scolded and threatened. Thereafter, at about 11.45 a.m. the defacto complainant Mala approached the accused persons and requested to move the car, for that, the first accused threatened by using abusing languages and also pushed the defacto complainant and she fell down and sustained injuries. On seeing the same, her brother Sivakumar and her another brother's son Sarathkumar came and enquired and they were also pushed by the accused persons. Thereafter, the defacto complainant gave the complaint before the respondent police. They have not taken any action.



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Therefore, she filed a private complaint before the trial Court. After recording the evidence of the complainant, the case was taken on file in C.C.No.20 of 2021 for the offences punishable under Sections 294(b), 323, 354 and 506(i) IPC, which is under challenge by the accused persons.

9.The Hon'ble Supreme Court gave guidelines for exercising the power under Section 482 IPC for quashing the criminal proceedings in the following decisions (i) ***State of Haryana vs. Ch.BhajanLal (AIR 1992 SC 604)***, (ii).***M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others (2021 SCC online 315)*** & (iii) ***PRATIBHA RANI Vs.SURAJ KUMAR & ANR (1985 Crl.L.J.817)***.

10.Therefore, the power of quashing the criminal proceedings should be exercised very sparingly. Further, the Court may not embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the complaint. Further, in this case, on perusal of the records reveals that the complainant examined herself as PW1 and also examined one Karthick as PW2, Karthikeyan as PW3, Manikandan as PW4,



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K.Selvakumar as PW5 and K.Srinivasan as PW6. After gone through the evidence of these witnesses, the learned Magistrate has satisfied that there is a sufficient ground for proceedings against the accused persons at the stage of issuing process to the accused, the magistrate is not required to record reasons elaborately, this legal position is well settled by the Hon'ble Supreme Court in *Special Lave Petition (Crl) 3978 of 1999 U.P.Pollution control Board Vs. M/s.Mohan Meakins Ltd. And others* and the principles stated by the Hon'ble Supreme Court in *Appeal (Crl.) No.5 of 2000 Kanti Bhadra Shah and anr. Vs. Sate of West Bengal* and *U.P.Pollution Control Board Vs. M/s.Mohan Meakins Ltd. And others* are applicable in this case. Therefore, it does not meet the parameters laid down by the Hon'ble Supreme Court in *State of Haryana vs. Ch.BhajanLal (AIR 1992 SC 604)*, *M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others (2021 SCC online 315)* & *PRATIBHA RANI Vs.SURAJ KUMAR & ANR (1985 Crl.L.J.817)*, the matter has to be enquired to find out the truth. Therefore I find no merit in the present criminal original petition.



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In the result, the criminal original petition is dismissed.

Consequently, connected miscellaneous petition is closed.

Index : Yes/No

Internet : Yes/No

sms

To

.09.2023

1.The Additional District Munsif cum Judicial Magistrate,
Ambur.

2.Inspector of Police
Ambur Town Police Station,
Ambur – 635 802.

3.The Public Prosecutor,
High Court, Madras.



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V.SIVAGNANAM ,J.

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Pre-delivery order made in
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