



Crl.O.P.No.28146 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023

CORAM:

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

Crl.O.P.No.28146 of 2022
and Crl.M.P.No.17311 of 2022

Swarnamaheswaran

...Petitioner

Vs.

1. The State Rep. by
The Inspector of Police,
Vadavalli Police Station,
Coimbatore.

2. Sakthivel

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records of First Information Report in Crime No.125 of 2021 dated 18.04.2021, pending on the file of the Inspector of Police, Vadavalli Police Station, Coimbatore and quash the same.

For Petitioner : Mr.MA.Gouthaman

For Respondents

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

For R2 : Mr.T.Balaji



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ORDER

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This petition has been filed to quash the FIR in Crime No.125 of 2021 dated 18.04.2021, pending on the file of the Inspector of Police, Vadavalli Police Station, Coimbatore, thereby taken cognizance for the offences under Sections 448 & 380 of IPC as against the petitioner.

2. The case of the prosecution is that the petitioner and others were involved in theft of fifteen heavy vehicle and four cars, which were parked in front of the house of the defacto complainant, due to which, he met loss in his contract business. Hence the complaint. On receipt of the said complaint, the first respondent registered FIR in Crime No.125 of 2021 for the offences punishable under Sections 448 & 380 of IPC, as against the petitioner.

3. The learned counsel appearing for the petitioner submitted that the petitioner is none other than the father-in-law of the second respondent's son. There was a money transaction between them. Thereafter, there was strange relationship between the daughter of the



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petitioner and the second respondent's son. For the money due, the second respondent handed over the vehicles in favour of the petitioner.

Thereafter, in order to escape from the money dispute and other family issues, the second respondent lodged complaint after the period of five months from the date of alleged occurrence. In fact, the second respondent did not even take any steps to register the FIR. After the petitioner's daughter lodged complaint, the second respondent has taken steps to register the FIR.

3.1. He further submitted that the second respondent simply filed writ petition before this Court for recovery of vehicle. Thereafter, the first respondent registered FIR and seized the vehicle under the seizure mahazar. At the time of hearing the petition for return of vehicle, the petitioner replied that there was a money dispute between them and in order to settle the money, the second respondent handed over the vehicles to the petitioner as security. Therefore, the first respondent objected for return of vehicle. Only for the reason that the vehicles stand in the name of the second respondent, the vehicles were ordered to return in favour of the second respondent. Therefore, there is absolutely no



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ingredients to constitute the offence under Section 448 as well as 380 of IPC. That apart, there was a matrimonial dispute between the second respondent's son and the petitioner's daughter. Hence, in order to wreck vengeance the second respondent lodged the present complaint as against the petitioner.

4. The learned counsel appearing for the second respondent submitted that immediately after the occurrence, the second respondent lodged complaint on 02.12.2020, and the same was not considered by the first respondent. In fact, the second respondent categorically mentioned about the earlier complaint dated 02.12.2020, in the complaint dated 18.04.2021. That apart, the vehicles which were allegedly stolen by the petitioner have been recovered under seizure mahazar and subsequently all the vehicles were returned to the second respondent. Whatever the civil dispute between the party is nothing to do with the present registration of FIR. He further submitted that it is only FIR as such it has to be investigated in depth in order to unearth the truth. Hence, he prayed for dismissal of this petition.



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5. The learned Government Advocate (Crl. Side) appearing for the first respondent police submitted that already the investigation has been completed and in view of the stay granted by this Court in the present petition, the first respondent could not able to file the final report. After getting approval from the learned Public Prosecutor, they will file the final report before the jurisdiction Court.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. The petitioner is the sole accused in the complaint lodged by the second respondent. Accordingly to the second respondent, he owned fifteen heavy vehicles and four cars and all the vehicles were parked in front of his house. While being so, on 27.11.2020, at about 10.00 p.m., the petitioner and others came to his house and had stolen all the vehicles. The very complaint itself creates doubts that whether in front of the second respondent house 19 vehicles can be parked including cars, tipper lorries, JCB, water tanker and tractors. That apart, no prudent man would sleep if 19 vehicles had stolen away in front of his house.



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8. Even assuming that the second respondent lodged complaint on 02.12.2020, it was also belated one since the occurrence was taken place on 27.11.2020. Therefore, though the second respondent stated in the complaint that he already lodged complaint on 02.12.2020, there is absolutely no proof to prove the same. Therefore, he lodged complaint only on 18.04.2021. If at all the second respondent lodged complaint immediately after the occurrence, the second respondent would take steps to register the FIR as against the petitioner.

9. Further the second respondent filed writ petition before this Court in W.P.No.3290 of 2021 for direction to direct the police officials to recover the vehicles from the petitioner herein. On perusal of the writ petition also reveal that no whisper about the lodgment of the complaint and there is no allegation that the vehicles were stolen by the petitioner herein. He made prayer simply for direction to direct the police officials to recover the vehicles.



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10. While pending the writ petition, the first respondent registered FIR and seized the vehicles. Thereafter, the second respondent filed petition for return of property in C.M.P.No.13434 of 2021, before the learned Judicial Magistrate No.VI, Coimbatore. In the said petition, the petitioner vehemently objected for return of vehicle in favour of the second respondent stating that there are money transaction between the petitioner and the second respondent. During investigation, it was found that the second respondent has to pay a sum of Rs.4 crores to the petitioner. Therefore, these vehicles were given to the petitioner by the second respondent as security for the amount due. However, the vehicles stand in the name of the second respondent and as such, the trial Court ordered to return of vehicles in favour of the second respondent with certain conditions. Therefore, it is clear that the vehicles were not stolen by the petitioner and all the vehicles were handed over by the second respondent during the money transaction.

11. As stated supra, no prudent man would keep quite for stolen of 19 vehicles worth about Rs.4 crores. On perusal of the affidavit filed in support of the writ petition in W.P.No.3290 of 2021 by the second



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respondent also clear that there is a matrimonial dispute between the second respondent's son and the petitioner's daughter and there is a money transaction between them. Therefore, no allegation *prima facie* is made out to constitute any of the offences under Sections 448 & 380 of IPC and it cannot be sustained.

12. In view of the above discussions, the FIR in Crime No.125 of 2021 dated 18.04.2021, pending on the file of the Inspector of Police, Vadavalli Police Station, Coimbatore, is hereby quashed and the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

30.11.2023

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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WEB COPY To

1. The Inspector of Police,
Vadavalli Police Station,
Coimbatore.
2. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN. J.

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