



Crl.O.P.(MD)No.416 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2023

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THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.416 of 2021

Gokul Ajith

... Petitioner

Vs.

1.State rep by
The Inspector of Police,
Anna Nagar Police Station,
Madurai City.
Cr.No.1601 of 2018

2.Mohammed John

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.418 of 2020 on the file of the learned Judicial Magistrate No.VI, Madurai and quash the same.

For Petitioner : Mr.S.Ragaventhare

For R1 : Mr.M.Sakthi Kumar,
Government Advocate (Crl. Side)

For R2 : No Appearance



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.418 of 2020 on the file of the learned Judicial Magistrate No.VI, Madurai.

2.According to the petitioner, the defacto complainant has given complaint alleging that on 29.11.2018 at 7.00 pm., when the second respondent came in his car bearing Reg.No.TN-01-X-1938, in front of his car, another car has been parked. Therefore, the second respondent raised horn. At that time, the person available in the car quarrelled with him and caused damage to the right side glass in the car and also assaulted him with stick. Based on the complaint, FIR was registered for the offence under Sections 147, 294(b), 323, 427 and 506(i) IPC. Now, case has been charge sheeted for the offence under Sections 294(b), 323, 427 and 506(ii) IPC. In fact, in the FIR, as many as persons were arrayed as accused. But during investigation, the petitioner herein only arrayed as an accused and thereby, the second respondent had given false complaint. As far as the charge as against the petitioner is concerned,



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there is no prima facie material available to constitute the offences under Sections 294(b), 323, 427 and 506(ii) IPC. The second respondent immediately did not go to the Government Hospital and he went to the private hospital. It shows the intention of the defacto complainant. Therefore, the above said charge sheet is liable to be quashed.

3.The learned counsel appearing for the petitioner would contend that there are wordy quarrel between the petitioner and the second respondent, while parking the car. For that, the second respondent had given a false complaint and the first respondent police also filed final report, without proper investigation. Even according to the final report, no materials to constitute the offence as alleged in the complaint. Hence, the final report has to be quashed.

4.The learned Government Advocate(Crl.side) appearing for the first respondent would contend that based on the complaint given by the second respondent, the first respondent registered FIR in Cr.No.1601 of 2018 for the offences under Sections 147, 294(b), 323, 427 and 506(i) IPC and thereafter, the first respondent investigated the case and since



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prima facie materials available, he filed final report for the offences under Section 294(b), 323, 427 and 506(ii) IPC and the same was also taken cognizance by the learned Magistrate in C.C.No.418 of 2020. At this stage, this petition is not maintainable and the same is liable to be dismissed.

5.Heard both sides and perused the materials available on the records.

6.On perusal of records revealed that based on the complaint given by the second respondent, the first respondent registered FIR in Cr.No. 1601 of 2018 for the offences under Sections 147, 294(b), 323, 427 and 506(i) IPC and after elaborate investigation, he filed final report for the offences under Section 294(b), 323, 427 and 506(ii) IPC and the same was also taken cognizance by the learned Magistrate in C.C.No.418 of 2020. On careful reading of the final report shows that there are some prima facie materials available to proceed with the case and thereby, this Court need not invoke its inherent power under Section 482 Cr.P.C. As per guidelines given by the Hon'ble Supreme Court of India in a case of



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M/s Neeharika Infrastructure Pvt. Ltd Vs. State of Maharashtra and

others, this Court need not interfere with the case at this stage and this petition is liable to be dismissed.

7.At this juncture, the learned counsel appearing for the petitioner prayed before this Court for dispensing the personal appearance of the petitioner before the trial Court. It is for the trial Court to decide as to whether the presence of the petitioner is required or not and the petitioner is at liberty to approach the trial Court in this regard. If any application filed by the petitioner, the trial Court has to take into consideration the nature of the offences and all other aspects.

8.In the result, with the above observations and directions, this criminal original petition is disposed of.

26.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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P. DHANABAL,J.

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To

- 1.The Judicial Magistrate No.VI,
Madurai.
- 2.The Inspector of Police,
Anna Nagar Police Station,
Madurai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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