



Crl.O.P.(MD) No.2667 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD) No.2667 of 2023

and

Crl.M.P.(MD) No.2414 of 2023

R.Arivanantham,

: Petitioner

Vs

1. State through
The Inspector of Police,
Gandamanur Vilakku Police Station,
Theni District.
in Crime No.193/2022

2. Palpandi,

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records and quash the FIR in Crime No.193/2022 dated 01/11/2022 on the file of the first respondent.

For Petitioner	: Mr.S.Sangeethraj
For R1	: Mr.M.Muthumanikkam
	Government Advocate (Crl.Side)



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ORDER

WEB COPY This criminal original petition has been filed seeking to quash the FIR in Crime No.193/2022 dated 01/11/2022 on the file of the first respondent.

2. It is not in dispute that on the basis of the complaint given by the second respondent, the FIR came to be registered in Crime No.193 of 2022 on 01.11.2022 under Section 174 Cr.P.C and after initial investigation, the case was altered to Section 304(2) IPC against the petitioner.

3. The petitioner's contentions are that the petitioner had earlier worked as Deputy Superintendent of Police and retired in the year 2018 without any black mark; that subsequently, he purchased a property but he had not made any alternation in the property and he is using the property as it was earlier; that the said property was not used for pathway or common pathway purposes and that the first respondent, without conducting proper investigation, has filed the alternation report, as if the petitioner was the main accused.

4. As rightly contended by the learned Government Advocate (Crl.Side), the aspects now raised by the learned Counsel appearing for the



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petitioner cannot be gone into at this stage and it is a matter for investigation.

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5. The Hon'ble Supreme Court in the case of ***State of Haryana and others Vs. Bhajan Lal and others*** reported in ***1992 SCC (Cri) 426*** has enumerated 7 categories of cases, where the power can be exercised under Section 482 of Code of Criminal Procedure and the same are extracted hereunder:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) where the allegations made in the First Information Report or the complaint, even if they are



taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) where there is an express legal bar engrafted in



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any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

6. In ***Dr.Dhruvaram Murlidhar Sonar Vs. The State of Maharashtra and others*** reported in **2019 (18) SCC 191**, the Hon'ble Apex Court has specifically held that exercise of powers under Section 482 Cr.P.C. to quash the proceedings is an exception and not a rule. It is settled law that the inherent jurisdiction under Section 482 Cr.P.C. is wide but at the same time, the same is to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the Section itself.

7. The Hon'ble Supreme Court in ***Kaptan Singh Vs. The State of Uttar***



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Pradesh and others reported in **2021 (3) Crimes 247** has stated that, that

WEB COURT in catena of decisions has observed that the High Court is not required to go into the merits of the allegations and/or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and/or conducting the trial and that question is required to be examined keeping in view, the contents of FIR and *prima facie* materials, if any, requiring no proof and at such stage, the High Court cannot appreciate evidence nor can it draw its own inferences from contents of FIR and materials relied on.

8. It is pertinent to note that if the petition under Section 482 Cr.P.C. was filed at the stage of FIR, the allegations in the FIR/complaint only are required to be considered and whether a cognizable offence is disclosed or not is required to be considered.

9. In the case on hand, as rightly contended by the learned Government Advocate (Criminal Side), a cursory perusal of the FIR and the alternation report filed by the first respondent makes out a *prima facie* case against the accused and it is a matter for investigation and as such, the question of quashing the FIR at this stage does not arise at all. Hence, this Court



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concludes that this is not a fit case to invoke Section 482 Cr.P.C., for quashing the FIR at this stage and the same is liable to be dismissed.

10. In the result, this Criminal Original Petition stands dismissed.

Consequently, connected Miscellaneous Petition is closed.

15.02.2023

NCC:Yes/No
Index:Yes/No
Internet:Yes/No
lr

To

1. The Inspector of Police,
Gandamanur Vilakku Police Station,
Theni District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

lr

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