



Crl.O.P(MD).No.3528 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 27.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.3528 of 2019 and
Crl.M.P(MD).No.2011 of 2019

1.Kalaiselvan
2.V.Peraman
3.N.Gunasekaran
4.R. Vasu
5.R.Pugal Raja
6.P.Govindarasu
7.L.Sekar
8.T.Ajith
9.Sankar

...Petitioners

Vs

State rep. by
1.The Inspector of Police,
Karamabakkudi Police Station,
Pudukkottai District.
(Crime No.16 of 2018)

2. Baskaran

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to FIR in Crime No.17 of 2018 pending on the file of the Inspector of Police, Karamabakkudi Police Station, Pudukkottai and quash the same.



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For Petitioners	: Mr. N. Sankar Ganesh
For Respondent No.1	: Mr. M.Sakthi Kumar Government Advocate (Crl. Side)
For respondent No.2	: Mr. T. Eashwar

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.17 of 2018 pending on the file of the first respondent police.

2. According to the petitioners, based on a complaint given by the second respondent case has been registered in Crime No.17 of 2018 on the file of the 1st respondent police, for the offence punishable under sections 147, 148, 294(b), 352, 379 and 506(i) IPC and Section 3(1) of TNPPDL Act, 1992.

3. The case of the prosecution is that the second respondent has preferred a complaint before the first respondent Police alleging that the petitioners 1 and 2 came to the defacto complainant's petty shop on 16.01.2018 and purchased Cigarette and Biscuits and have not paid for the same. When the same was questioned by the defacto complainant, they



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have damaged the shop and also abused him in filthy language and also damaged his petty shop and had stolen a sum of Rs.6,000/- from the cash chest and damaged to the shop is estimated to Rs.10,000/-, due to which, an FIR has been registered in Crime No.17 of 2018 on the file of the 1st respondent police, for the offences punishable under sections 147, 148, 294(b), 352, 379 and 506(i) IPC and Section 3(1) of TNPPDL Act, 1992. Already, the mother of the 2nd respondent has given a complaint for the same occurrence, for which, a case has been registered in Crime No.16 of 2018 for the offence under Sections 294(b), 509 IPC and Section 4 of TNPH Women Act, 2002. Already, these petitioners have given a complaint and based on the complaint, a case has been registered in Crime No.18 of 2018, dated 16.01.2018 for the offences under Section 147, 294(b), 323, 363, 342 IPC r/w. 3(1)(r), 3(1)(s) and 3(2) V(a) of the SC and ST (PA) Amendment Act, 2015 in order to curtail the petitioners from the above said proceeding the said case, false case has been foisted against them.

4. No counter was filed by the respondents.



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5. The learned counsel appearing for the petitioners contended that the second respondent has given a false complaint as against the petitioners and that a case has been registered in Crime No.17 of 2018, on the file of the 1st respondent police, for the offence punishable under sections 147, 148, 294(b), 352, 379 and 506(i) IPC and Section 3(1) of TNPPDL Act, 1992 and after a lapse of four years, no final report has been filed before the Court concerned. Already, these petitioners have given a complaint against the defacto complainant and others and the same is pending in Crime No.18 of 2018 and in order to curtail the petitioners from prosecuting the said case present complaint has been lodged as against the them and already the mother of the complainant has lodged another complaint and for that also FIR has been registered in Crime No.16 of 2018. Therefore, this First Information Report is an abuse of process of law. But, without conducting proper investigation, the first respondent has filed a charge sheet and the same is liable to be quashed.

6. In support of his contention, the learned counsel appearing for the petitioners relied on the Judgment of the Hon'ble Supreme Court reported in **2010(95) AIC 232** in the case of **(Babubhai Vs. State of Gujarat and**



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others).
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7. The learned counsel for the 2nd respondent contended that based on the complaint given by the defacto complainant, the 2nd respondent registered FIR as against these petitioners. The petitioners came to the petty shop of the defacto complainant and purchased some articles and thereafter, refused to give the amount thereby, there was some wordy altercations and thereafter, the petitioners have damaged the petty shop and had stolen a sum of Rs.6,000/- and thereby, the defacto complainant has given a complaint and on the basis of that complaint, FIR has been registered and again after some time, these petitioners came to the place of occurrence and when the mother of the defacto complainant was present the petitioners have assaulted her and also abused her in filthy language and thereby, she gave a complaint as against these petitioners and thereby, FIR has been registered in Crime No.16 of 2018. Crime Nos.16 to 18 of 2018 are arising out of the same day in the same place and the two occurrence happened in the same date on two different occasions. Therefore, the first respondent police after elaborate investigation, filed a final report and the charge sheet is also taken on file. Since the final report



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has been filed as against the petitioners, they have to face the trial and thereby, this petition is liable to be dismissed.

8. The learned Government Advocate (Crl. Side) appearing for the first respondent would submit that based on the complaint given by the second respondent first respondent Police registered FIR in Crime No.17 of 2018 and another case in Crime No.16 of 2018 registered for the same offence. He would further submit that in the present Crime No.17 of 2018 investigation has already been completed and the charge sheet also filed, but not taken on file. Since in this case there are prima facie materials available as against these petitioners and already final report filed and taken cognizance in C.C.No.129 of 2018 on the file of the Judicial Magistrate, Alangudi, Pudukottai District, this petition is liable to be dismissed.

9. This Court has heard the learned counsel appearing on either side and perused the records.

10. On a perusal of the FIR, it is seen that two different First



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information Report have been registered for the occurrences, one is given by the defacto complainant and the another one is by the mother of the defacto complainant. The present FIR has been registered by the 1st respondent based on the complaint given by the second respondent. As per the prosecution case, this occurrence had happened on two different times and the previous occurrence is on a different date and time by the different accused. Further, the investigation was completed in this case and final report also filed. As per the investigation, there are prima facie materials available as against these petitioners thereby, the case is pending before the trial Court. Since there are prima facie materials available as against these petitioners, at this stage it is not proper to quash the proceedings and further, already these petitioners have also lodged a complaint and the same is pending in Crime No.18 of 2018. Therefore, on a perusal of the records, it shows that three FIRs have been registered as against the parties. It is well settled law that the veracity of the statements rendered during investigation cannot be tested at this stage and this case required elaborate trial. Therefore, at this stage, this Court cannot quash the First Information Report. Further, the learned counsel for the petitioners has relied on the Judgment reported in **2010(95) AIC 232** in the



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case of (*Babubhai Vs. State of Gujarat and others*), wherein the Hon'ble Supreme Court held that FIR is a very important document and test of sameness is to be applied to find out whether both the FIRs' relate to same incident in respect of same occurrence or they are in regard to incidents which are two or more parts of same transaction. If answer is affirmative second FIR is liable to be quashed. However, where the version of the second FIR is different and they are in respect of two different incidents / crimes, second FIR is permissible. In the present case two different occurrences were taken place at two different time and two separate FIRs have been registered.

11. In view of the said discussions and considering the facts and circumstances of the case, this Court is of the opinion that this petition has no merits and deserves to be dismissed. Hence, this Criminal original Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

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NCC : Yes/No
Internet : Yes/No
Index : Yes/No
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To

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1. The Inspector of Police,
Karamabakkudi Police Station,
Pudukkottai District.
2. The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai



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P. DHANABAL,J.

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