



Crl.O.P.(MD).No.12419 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :24.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

Crl.O.P.(MD).No.12419 of 2020

M.Mariyam Bheevi

... Petitioner

Vs.

1. The Inspector of Police
Bazaar Police Station,
Ramanathapuram District

2. S.Syed Abdhul Sathar

..Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records relating to the First Information Report in Crime No. 448 of 2020 on the file of the first respondent and quash the same as against the petitioner/A2.

For Petitioner : Mr.S.Raja

For R.1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

For R2 : No appearance

ORDER

This Criminal Original Petition has been filed to quash the First Information Report in Crime No. 448 of 2020 on the file of the first respondent police.



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2. According to the petitioner the petitioner is arrayed as A2 in Crime No.448 of 2020 for the offences under Sections 294(b) and 506(ii) of IPC. The defacto complainant and other are the administrators in the Ramanathapuram Kadhar Mosque. The husband of the petitioner is the first accused. The first accused is the tenant in Shop No.8-B which is administered by mosque and he has been a tenant for the past eight years. While so it is alleged that the first accused handed over the shop to some other person for eleven lakhs and subsequently the first accused had handed over the shop of the Mosque administration. Then the advance amount of the first accused to the tune of Rs.80,000/- was sent to him by way of demand draft. In the meanwhile the first accused and the petitioner herein along with some other persons attempted to break open the shop and when the same was questioned by the mosque administration the accused persons abused and gave life threat against them. Hence the second respondent has lodged complaint dated 17.09.2020 and the First Information Report was registered in Crime No. 448 of 2020. Infact this petitioner was also assaulted by the defacto complainant and others and thereby counter case in Crime No.447 of 2020 was also registered. Only in order to wreck vengeance for the above said case the present complaint has been given by the second respondent as the counter blast. The alleged offence in the impugned First Information Report are bald and vague and are not specific with



regard to the abuse and life threat. There is no specific allegation against the petitioner to constitute the offences under Sections 294(b) and 506(ii) of IPC. No such occurrence happened and there is a dispute with regard to the shop which was leased out to the husband of the petitioner , thereby he present complaint has been lodged and therefore the First Information Report is liable to be quashed.

3. No counter was filed by the respondents.

4. The learned counsel appearing for the petitioner would contend that the petitioner has been arrayed as A2 in Crime No.448 of 2020 on the file of the first respondent police for the offences under Sections 294(b) and 506(ii) of IPC based on the complaint given by the second respondent. Infact no such occurrence was happened. Already the husband of the petitioner lodged complaint before the first respondent police and based on that complaint a case has been registered in Crime No.447 of 2020 against this second respondent and ten others for the offences under Sections 147,294(b),323 and 506(i) of IPC. Inorder to wreck vengeance the present complaint has been filed against the petitioner and others. Even according to the complaint the allegations are vague and bald and they are not specific and there are no specific overt act as against the petitioner, thereby the First Information Report is liable to be quashed.



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5. The learned Additional Public Prosecutor appearing for the first respondent would contend that there is a dispute between the parties with regard to the shop which belongs to the mosque. The husband of the petitioner was a lessee and there was some misunderstanding between the husband of the petitioner and the defacto complainant with regard to the lease, thereby there was a wordy quarrel between them. Both parties gave complaint against each other. Crime No.447 of 2020 was registered on the complaint given by the husband of the petitioner and based on the complaint given by the second respondent Crime No.448 of 2020 was registered. Further due to the stay granted by this Court they are unable to file final report and the investigation has been completed. Since it is a case and case in counter this petition is liable to be dismissed.

6. Heard both sides and perused the materials available on record.

7. On perusal of the records it is observed that based on the complaint given by the second respondent the First Information Report has been registered in Crime No.448 of 2020 by the first respondent police for the offences under Sections 294(b) and 506(ii) of IPC.



According to the petitioner her husband gave complaint before the first respondent and based on that complaint a case was registered against the accused persons with regard to the civil dispute in respect of lease of the property. On perusal of the complaint and the First Information Report it reveals that on the date of occurrence i.e.,17.09.2020 at about 5.10 p.m., first accused and the petitioner herein along with some other persons attempted to break open the shop, at that time the defacto complainant and others questioned about the same for which they abused the defacto complainant and also made a life threat with weapon. There are allegation as against other petitioners and there is no specific allegations as against this petitioner and the allegations are vague, bald and general and omnibus allegations and for these allegations no warrant of prosecution. Further the Hon'ble Supreme Court in the case of ***Kahkashan Kausar and Sonam and Ors.vs. State of Bihar and Ors in Criminal Appeal No.195 of 2022***, wherein it is held as follows:

"19. Coming to the facts of this case, upon a perusal of the contents of the FIR dated 01.04.19, it is revealed that general allegations are levelled against the Appellants. The complainant alleged that 'all accused harassed her mentally and threatened her of terminating her pregnancy'. Furthermore, no specific and distinct allegations have been made against either of the Appellants herein, i.e., none of the Appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are therefore general and omnibus and can at best be said to have been made out on account of small skirmishes. Insofar as husband is concerned, since he has not appealed against the



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order of the High court, we have not examined the veracity of allegations made against him. However, as far as the Appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution”

8. In view of the above discussion and the as per the judgment of the Hon'ble Apex Court that for general and omnibus allegations this petitioner need not face the trial, thereby the First Information Report is liable to be quashed.

9. Accordingly this Criminal Original Petition is allowed and the First Information Report in Crime No. 448 of 2020 on the file of the first respondent is hereby quashed in so far as the petitioner is concerned.

24.08.2023

Index : Yes / No
Internet : Yes / No
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To

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



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P.DHANABAL, J.

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