



Crl.O.P(MD).No.12950 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 11.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE P. DHANABAL

Crl.O.P(MD).No.12950 of 2020

and

Crl.M.P.(MD)No.5905 of 2020

Sathishprabu

...Petitioner

Vs

State Rep. by its

1.The Inspector of Police,
Nesamony Nagar Police Station,
Kanyakumari District.
(Crime No.430 of 2020)

2.Premkumar

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records pertaining to the FIR in Crime No.430 of 2020 on the file of the first respondent and quash the same as against the petitioner is concern.

For Petitioners

: Mr.R.Maheswaran

For 1st Respondent

: Mr.M.Sakthi Kumar

Government Advocate

ORDER

This petition is filed to quash FIR in Crime No.430 of 2020 on the file of the first petitioner.



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2. According to the petitioner, based on the complaint given by the second respondent, the first respondent registered a case in Crime No.430 of 2020 for the offence under Sections 147, 341, 379 (NP) and 506(ii) of IPC. The occurrence took place on 19.09.2020. But the complaint was lodged on 24.09.2020.

3. According to the prosecution case, on 19.09.2020 at about 10.30 p.m., while the defacto complainant was proceeding to his home, the petitioners came in a shift car bearing registration No.TN-74-AQ-300 and the other accused came in two wheeler and they suddenly waylaid the second respondent and snatched 22 gram of gold chain and tried to assault the second respondent. To save his life, he entered into house situated near his house and intimated the incident to the police over phone. On getting information, the police officer came to the spot. On seeing the police, the petitioner ran away from the occurrence. The second respondent went to Guruvayur Temple, Kerala and after returning, he lodged the complaint. In fact the second respondent only parked the car in the main road. When the same was questioned, there was wordy quarrel between the petitioner and second respondent. Thereby, he exaggerated the matter and given a false complaint.

Even according to the complaint, there is no any ingredients to attract the



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offence and the pending FIR is abuse of process of law. Thereby, the FIR is liable to be quashed.

4.No counter was filed on the side of the respondents.

5.The learned counsel appearing for the petitioner would contend that based on the complaint given by the second respondent, the first respondent registered a complaint and the petitioner has not committed any offence. The second respondent being advocate had given a false complaint after the delay of six days. In fact due to parking of vehicles, there was wordy quarrel between the petitioner and second respondent. Thereby, he lodged false complaint. Even according to the complaint, the allegations are vague and not specific. Thereby, pending FIR is abuse of process of law and thereby, the FIR is liable to be quashed.

6.The learned Government Advocate appearing for the first respondent would contend that investigation in this case was completed and charges against the petitioner under Sections 147 and 379 (NP) of IPC were deleted. Charge sheet is ready to be filed before the learned Judicial Magistrate No.II, Nagercoil for the offence under Sections 341 and 506(i) of IPC. The petitioner has to face the trial before the trial Court. There are prima facie materials



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available as against the petitioner. Thereby, this petition is liable to be dismissed.

7.This Court heard both sides and perused the materials available on records.

8.On perusal of the records, it is observed that the second respondent has given complaint before the first respondent. Based on the complaint, FIR has been registered in Crime No.430 of 2020 for the offence under Sections 147, 341, 379(NP) and 506(ii) of IPC. This petitioner is one of the accused in the aforesaid offence and he filed the petition on the ground that no occurrence was happened as against the second respondent and in fact there was a wordy quarrel between the parties with regard to parking of vehicles. Thereby, false complaint has been lodged against the petitioner. Even as per FIR, there are no ingredients to constitute offence under Sections 341 and 506(i) of IPC. According to the defacto complainant, 22 grams gold chain was missing and there is no allegation that the chain was snatched by the petitioner. Investigation was completed and the charge sheet is ready to be filed. The allegations made in the complaint are vague and not specific. There is no specific overt act as against the petitioner and allegations are vague and general and omnibus allegations.



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9.At this juncture, this Court would like to rely upon the decision of the

Hon'ble Supreme Court in the case of ***Kahkashan Kausar @ Sonam and ors.***

v. State of Bihar and Ors. reported in ***2022 Livelaw (SC) 141***, wherein the

Hon'ble Supreme Court in para no.19 held as follows:-

“19.Coming to the facts of this case, upon a perusal of the contents of the FIR dated 01.04.2019, 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 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.”

10.On careful perusal of the said judgment, it is clear that based on the general and omnibus allegations do not warrant prosecution. In this case on



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hand also, the allegations are general and omnibus, thereby, the said case law squarely applicable to the present facts of the case.

11.In view of the above judgment and as discussed supra, this Criminal Original Petition is allowed and the FIR as against the petitioner in Crime No. 430 of 2020, on the file of the first respondent is hereby quashed. Consequently, connected miscellaneous petition is closed.

11.09.2023

NCC : Yes/No

Internet : Yes/No

Index : Yes/No

Mrn

To

- 1.The Inspector of Police,
Nesamony Nagar Police Station,
Kanyakumari District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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