



Crl.O.P.(MD) No.14543 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.08.2023

CORAM:

THE HONOURABLE DR.JUSTICE D.NAGARJUN

Crl.O.P.(MD) No.14543 of 2023

and

Crl.M.P.(MD)No.11464 of 2023

Arun @ Arunbabu

... Petitioner / Accused No.4

Vs.

1.The State

Rep through the Inspector of Police,
Elayirampannai Police Station,
Virudhunagar District.
(Crime No.77 of 2023)

... 1st Respondent / Complainant

2.Ayyammal

... 2nd Respondent / Defacto
Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to FIR in Crime No.77 of 2023 dated 04.06.2023 on the file of the Inspector of Police, Elayirampannai Police Station, Virudhunagar District and quash the same as against the petitioner.

For Petitioner	: Mr.S.M.Anantha Murugan
For R1	: Mr.SS.Madhavan
	Government Advocate (Crl.side)



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ORDER

This petition is filed seeking quashment of the FIR in Crime No.77 of 2023, dated 04.06.2023 on the file of the respondent Police registered against the petitioner and other accused for the offences punishable under Sections 147, 294(b), 323 and 506(ii) IPC.

2.It is submitted by the learned counsel for the petitioner that the petitioner is serving in Indian Army and there is a dispute between the 1st accused and his wife. On account of the same, the mother-in-law of the 1st accused has filed a criminal case against the petitioner and other accused, which was registered in Crime No.77 of 2023, alleging that the petitioner /A4, who is the relative of the 1st accused, was also present in the scene of occurrence and had also participated in the offence. It is further submitted by the learned counsel for the petitioner that the petitioner is unnecessarily roped in the present case.

3.The learned Government Advocate (Crl.Side) for the 1st respondent Police has submitted that as per the investigation done by the Police, there are



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clear overt acts against all the accused and thereby, until the investigation is completed, the truth or otherwise of the allegations cannot be revealed.

4.The Hon'ble Supreme Court has laid down the guidelines for exercising of inherent power under Section 482 of the Cr.P.C. for quashing the criminal proceeding in the case of *State of Haryana v. Bhajanlal* reported in *1992 SCC (Cri) 426*, which reads as follows:-

"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



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other materials, if any, accompanying the FIR 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 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."



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5.It is to be examined as to whether the facts of the case are false in any one of the circumstances as held by the Hon'ble Apex Court for considering whether the case against the petitioner can be quashed.

6.It is not a case, where the petitioner is seeking quashment of the FIR on the ground that there is a statutory embargo in continuation of the proceedings. On going through the FIR, there are clear and direct overt acts against the petitioner. If the allegations levelled against the petitioner are correct, there is a material to hold that the offences alleged have been committed by the accused as narrated in the FIR.

7.On going through the contention of the petitioner and on considering the defense put forth by the petitioner, it cannot be decided at this stage as to which one of the version is correct. Unless, the investigation is completed, the truth or otherwise of the statement of the witnesses cannot be appreciated. Therefore, it is a fit case, where the Police shall be allowed to proceed with the investigation, as there is *prima facie* material against the petitioner. Further, it is not advisable to throttle the investigation at this threshold level.



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8. Accordingly, this Criminal Original Petition is disposed of directing the respondent Police to complete the investigation as quickly as possible not later than four weeks from the date of receipt of a copy of this order. However, the respondent Police are directed not to take any coercive steps against the petitioner. Consequently, connected Miscellaneous Petition is closed.

18.08.2023

NCC : Yes / No

Internet : Yes / No

Index : Yes / No

Yuva

To

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



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DR.D.NAGARJUN. J.

Yuva

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