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Crl.O.P.No.9712 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.9712 of 2022
and Crl.M.P.Nos.5705 & 5706 of 2022

M.Indisar Mohamadu

... Petitioner

Versus

M.Arunkumar

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.74 of 2021, on the file of the II Additional District Munsif-cum-Judicial Magistrate, Ambur and quash the proceeding as against the petitioner / 1st Accused.

For Petitioner : Mr.V.Rajamohan

For Respondent : Mr.Madhana Gopal

ORDER

The petitioner has filed this Criminal Original petitions to quash the proceedings C.C.No.74 of 2021, on the file of the II Additional District Munsif-cum-Judicial Magistrate, Ambur in which cognizance



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was taken for the offence punishable under Sections 120(B), 147, 197, 447, 342, 294(b), 324, 325 and 506(ii) of IPC r/w Section 34 of IPC.

2. The petitioner herein is the accused in C.C.No.74 of 2021, which was assigned by the learned II Additional District Munsif-cum-Judicial Magistrate, Ambur, taken cognizance for the offences punishable under Sections 120(B), 147, 197, 447, 342, 294(b), 324, 325, and 506(ii) of IPC r/w Section 34 of IPC. The private complaint was given by the respondent before the trial Court against 7 individuals. The 1st petitioner approached this Court praying to quash the proceedings, and the other 2 to 7 accused are police officials.

3. According to the defacto complainant, A1 borrowed an amount from him in 2014, and he paid 20% of the profit from his business as part of the loan amount until 2015. Thereafter, the defacto complainant demanded the return of the amount, for which A1 executed a promissory note. However, until 2019, neither the interest nor the principal was paid. On 17.05.2019, at about 11.30 a.m., when the defacto complainant was



riding his two-wheeler, A1 from the Deputy Superintendent of Police (DSP) office enquired about him and asked him to meet the next day. Subsequently, on 18.05.2019 at 1.00 p.m., he assured to meet him but did not appear. Suddenly, on 18.05.2019 at about 2.30 p.m., the other accused, 2 to 7, came in a van, entered the office premises, and attacked him without any warrant. They forcibly took him to the police station. At that time, A1, along with his friend Nethaja, threatened the defacto complainant. Instead of taking him before the Magistrate for remand, they took him to a medical hospital for treatment. Due to the attack by the police, he sustained a fracture in his hand and underwent further treatment. He insisted on surgery and, therefore, could not immediately file the petition. Subsequently, he gave a complaint by post to the police, but no action was taken. Hence, a private complaint was given on 04.07.2019.

4. Challenging the said private complaint, the 1st accused approached this Court. According to him, no such occurrence happened as alleged by the 2nd respondent. In fact, he was attacked by the defacto



complainant, for which he gave a complaint to the police. Accordingly, an FIR was lodged in Crime No.255 of 2019 on 18.05.2019 for the offences under Sections 342, 294(b), 324, 325, and 506(ii) of IPC. As a counterblast, the present case was filed with an ulterior motive to harass the police officials. In fact, R2 unlawfully locked his company premises to settle the money dispute. Further, to harass the petitioner, a false complaint was given. The Magistrate, without applying mind, took cognizance without any material evidence. Furthermore, there is no proof that he gave the complaint before the trial court and did not furnish any particulars regarding the treatment. He only relied on the discharge summary, which does not support R2's case. This complaint was filed vengeance with a mala fide intention.

5. Considering both sides' submissions and a perusal of the records, it reveals that the petitioner had already filed a complaint against the defacto complainant. Accordingly, Crime No.255 of 2019 was filed on 18.05.2019 and the same is pending. Thereafter, R2 gave a complaint alleging that he was attacked by A1/police officials, before the trial court



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and furnished records of giving a complaint to the police. However, he gave the complaint only on 17.06.2019, stating that he suffered with injuries. But the medical bill said to be issued by a private hospital, is dated 20.06.2019 after the alleged complaint given by him to police. Thereafter near about 3 weeks later on 06.07.2019 this private complaint was lodged. Medical records are obtained after the complaint which itself proves that those documents were obtained with ulterior motive to harass the petitioner. He relied OP sheet given by Government hospital dated 31.05.2019. But near about 3 weeks later he said to be admitted in private hospital i.e. on 20.06.2019. Therefore, those medical records are prima facie not sufficient to support the case of respondent that he was attacked by police official due to which he undergone surgery. But without perusing the records the trial Court mechanically taken the case on file. Besides as a counter blast, this private complaint lodged by the respondent as such is vexatious and clear case of abusing process of law, liable to the quashed.



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6. Accordingly, this Criminal Original Petition is allowed. C.C.No.74 of 2021 on the file of the II Additional District Munsif-cum-Judicial Magistrate, Ambur is ordered to be quashed. Consequently, the connected miscellaneous petitions are closed.

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Index: Yes/No
Internet: Yes/No
rri

To

1. The II Additional District Munsif-cum-Judicial Magistrate, Ambur.



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T.V.THAMILSELVI, J.

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