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CrI.R.C.No.912 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**CrI.R.C.No.912 of 2024
And
CrI.M.P.No.7789 of 2024**

Krishnamoorthy

... Petitioner

Vs.

State Rep. by its
The Inspector of Police,
Vanapuram Police Station,
Thiruvannamalai District.

... Respondent

Prayer:

Criminal Revision Case filed under Section 379 and 401 of Criminal Procedure Code, to call for the records and set aside the order passed in Cr.M.P.No.1706 of 2022 in C.C.No.30 of 2022 dated 16.04.2024 pending trial on the file of the District Munsif Cum Judicial Magistrate Court, Thandarampattu.

For Petitioner : Mr.Devakumar

O R D E R

This criminal revision has been filed seeking to set aside the



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order passed in Cr.M.P.No.1706 of 2022 in C.C.No.30 of 2022 dated 16.04.2024 on the file of the District Munsif Cum Judicial Magistrate Court, Thandarampattu.

2.The petitioner is the second accused in C.C.No.30 of 2022 and the petitioner along with his father/A1 is alleged to have assaulted the defacto complainant and his wife and threatened them with dire consequences and as such they are implicated for the offence under Sections 341, 294(b), 323 and 506(i) of I.P.C. and Section 4 of Women Harassment Act and the petitioner filed petition under Section 239 of Cr.P.C. seeking to discharge him from above said charges in Cr.M.P.No.1706 of 2022 in C.C.No.30 of 2022 before the District Munsif Cum Judicial Magistrate Court, Thandarampattu and the same was dismissed by the trial Court. Challenging the same, the petitioner has filed the present revision.

3.The learned counsel appearing for the petitioner submitted that as per the F.I.R., the occurrence happened on 20.06.2021 at about 4.00 p.m., however, the defacto complainant has stated that his wife was admitted in the Government Medical College Hospital,



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Tiruvannamalai at about 3.45 p.m. and he was treated as out patient, however, the trial Court without considering all these factual aspects, dismissed the discharge petition, which is not sustainable one.

4.Heard the learned counsel appearing for the petitioner and perused the materials available on record.

5.The grounds raised by the learned counsel appearing for the petitioner are all triable issues, which cannot be adjudicated in a revision. The facts of this case and grounds raised in the revision does not fall within the parameters laid down by the Apex Court in the case of **State of Haryana - Vs - Bhajan Lal & Ors. (1992 SCC (Crl.) 426)** wherein the Apex Court held as under :

"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 extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, which we have extracted 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 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 other materials, if any, accompanying the F.I.R. 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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M.DHANDAPANI,J.
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6.In view of the above, this Court is not inclined to interfere with the order impugned in the revision and the criminal revision case is dismissed. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

- 1.The District Munsif Cum Judicial Magistrate Court,
Thandarampattu.
- 2.The Inspector of Police,
Vanapuram Police Station,
Thiruvannamalai District.

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