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Crl.O.P.No.17271 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.17271 of 2023

And

Crl.M.P.No.11193 of 2023

K.V.S.Tamilvanan

... Petitioner

Vs.

1.State Rep. by
Inspector of Police,
W-34, All Women Police Station,
Ennore,
Chennai.

2.Selvi

... Respondents

Prayer:

Petition filed under Section 482 of Cr.P.C., seeking to call for records in Crime No.8 of 2023 on the file of the Inspector of Police, W-34, AWPS, Ennore, Chennai, to quash the same.

For Petitioner : M/s.S.Suresh
For Respondents : Mr.A.Gopinath for R1
Government Advocate (Crl. Side)
Mr.K.Anandha Raja for R2

O R D E R

This criminal original petition has been filed seeking to quash the



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investigation in Crime No.8 of 2023 pending on the file of the first respondent.

2.The second respondent has given a complaint to the first respondent to the effect that she met the petitioner in his house and that the petitioner promised the second respondent that he will resolve all her disputes with the owner of the house namely, Dhayalan who is none other than the brother of the petitioner. Over a period of time, the petitioner started getting in touch with the second respondent regularly. On one fine day, the petitioner called the second respondent over phone and asked her to come to a particular place near Padavettamman Temple. On reaching that place, the petitioner is said to have promised to the second respondent that he will marry her and by making such a false promise, the petitioner had physical intercourse with the second respondent. Thereafter, the petitioner went back on his promise and did not help the second respondent to resolve the dispute with the above said Dhayalan. The petitioner also started avoiding the second respondent and the petitioner started threatening the second respondent with dire consequences. The petitioner also did not marry the second respondent. Based on this



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complaint, the first respondent registered an F.I.R. in Crime No.8 of 2023 for offence under Sections 417, 420 and 506(1) of I.P.C.

3.Heard the learned counsel appearing on behalf of the petitioner, the learned Government Advocate (Crl. Side) appearing on behalf of the first respondent and the learned counsel appearing on behalf of the second respondent.

4.Before going into the facts of the case, it will be more relevant for this Court to take note of the latest judgment of the Apex Court in ***Mahmood Ali and Others Vs. State of U.P. and Others*** reported in ***2023 SCC OnLine SC 950***. The relevant portions are extracted hereunder:

11. *The entire case put up by the first informant on the face of it appears to be concocted and fabricated. At this stage, we may refer to the parameters laid down by this Court for quashing of an FIR in the case of State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : AIR 1992 SC 604. The parameters are:—*

"(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and



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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 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



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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.”

12. *We are of the view that the case of the present appellants falls within the parameters Nos. 1, 5 and 7 respoly of Bhajan Lal (supra).*

13. *At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal*



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proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of



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the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.”

5.The above judgment of the Apex Court was rendered after the earlier judgment in ***Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra*** reported in **2021 SCC OnLine SC 315**. The Apex Court has categorically held that it is not just enough for the Court to look into the averments made in the complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed. In frivolous or vexatious proceedings, it was held that the Court owes the duty to look into many other attendant circumstances emerging from the record of the case over and above the averments and if need be, with due care and circumspection, this Court has also been directed to read inbetween



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the lines. Ultimately, the Apex Court held that the Court while exercising the jurisdiction under Section 482 of Cr.P.C. must not restrict itself to the averments made and the Court has to look into the overall circumstances leading to the registration of the F.I.R.

6. Useful reference can also be made to the judgment of the Apex Court in ***Abhishek Vs. State of Madhya Pradesh*** reported in **2023 SCC OnLine SC 1083**.

7. Keeping the above judgments in mind, this Court will now go into the facts of the present case.

8. The petitioner in this case is a man aged about 64 years. The second respondent is a woman aged about 30 years. The documents that are available before this Court shows that the brother of the petitioner namely, Dhayalan had a long standing dispute with the second respondent regarding a property that was leased in favour of the second respondent. The second respondent was not vacating the property and she was causing disturbance to the said Dhayalan and therefore, repeated complaints were given and it was enquired in CSR



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No.297 of 2021 and CSR No.91 of 2022. There is yet another F.I.R. that has been registered against the second respondent in Cr.No.673 of 2022 on the basis of the complaint given by one Renuka Devi. On carefully reading the allegations made in that complaint, it is seen that the second respondent has resorted to a similar conduct by making certain allegations against the husband of the defacto complainant in that case.

9. There is also yet another case that was registered based on the complaint given by the second respondent against the brother of the petitioner namely Dhayalan in Cr.No.287 of 2022. These background facts become very essential in order to understand that the second respondent was repeatedly having problems in this case with the brother of the petitioner and in such circumstances, it should be seen if the petitioner could have contacted the second respondent with a promise to resolve the problem and also marry the second respondent.

10. The second respondent in the complaint has alleged that the petitioner promised to resolve the dispute with Dhayalan who is the brother of the petitioner. Thereby, the petitioner got closer to the



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second respondent and ultimately, both of them had physical intercourse and later the petitioner refused to marry the second respondent.

11.On a plain reading of the allegations made in the F.I.R. it is seen that the facts as stated in the F.I.R. is highly improbable and a prudent man will never believe the statements made in the F.I.R. considering the attendant circumstances involved in this case. In the first place, there was already a dispute between the brother of the petitioner and the second respondent which resulted in series of complaints given to the Police. Under such circumstances, it is quite unbelievable that the petitioner will develop a relationship with the second respondent and promise to marry her. That apart, the petitioner is a man aged about 64 years and the second respondent is a woman aged about 30 years and even assuming without admitting that they did have a relationship, the consent that was given by the second respondent to the petitioner for physical intercourse can never be stated to be a consent given under misconception. The second respondent is a woman aged about 30 years and she must be aware of the consequences of entering into such a relationship with a man. Therefore, even if the allegation is taken to be true, there is no



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question of any cheating made out in this case against the petitioner on the ground that he promised to marry the second respondent and thereafter had physical intercourse.

12.The present case is clearly attended with malafides and the complaint itself has been given with ulterior motives. This case clearly falls within the parameters laid down by the Apex Court in ***State of Haryana and others vs. Bhajan Lal and others*** reported in ***1992 Supp (1) SCC 335*** and particularly Clause 3, Clause 5 and Clause 7 of the said parameters.

13.In the light of the above discussion, the continuation of the proceedings as against the petitioner will clearly amount to abuse of process of Court which requires the interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

14.In the result, the F.I.R. in Crime No.8 of 2023, on the file of the first respondent police, is quashed and this criminal original petition is allowed.

15.It was brought to the notice of this Court that the petitioner



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was directed to deposit a sum of Rs.1 Lakh at the time when he was granted anticipatory bail. Since the F.I.R. itself is now quashed, it is left open to the petitioner to file a memo before the concerned Magistrate Court and seek refund of the amount deposited and the petitioner shall be permitted to withdraw the amount.

16.This criminal original petition is allowed. Consequently, the connected miscellaneous petition is closed.

19.03.2024

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

To

- 1.The Inspector of Police,
W-34, All Women Police Station,
Ennore,
Chennai.
- 2.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.



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