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Crl.O.P.No.27779 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.27779 of 2024 &
Crl.M.P.Nos.15422 & 15423 of 2024

1.Alagarsamy
2.Indragandhi

... Petitioners

Vs.

1.State
Rep. by Sub-Inspector of Police,
F-5, Choolaimedu Police Station,n
Anna Nagar, Chennai.
(Crime No.388 of 2023, dated 03.11.2023)

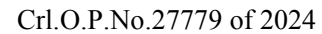
2.Lakshmi.

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 BNSS, to call for the records in C.C.No.200 of 2024, on the file of the XVII Metropolitan Magistrate, Saidapet and quash the proceedings as against the petitioners.

For Petitioners : Mr.A.Ramesh
Senior Advocate
For Mr.R.Ashwin

For Respondents : Mr.S.Sugendran
Additional Public Prosecutor
for R-1
Dr.A.Thiyagarajan
Senior Advocate
For Mrs.S.Ramesh Kumar for R-2



This criminal original petition is filed to quash C.C.No.200 of 2024, on the file of the XVII Metropolitan Magistrate, Saidapet, as against the respondents.

3. The learned senior counsel would further submit that for a single incident, there should be only one final report. One of the versions in the complaints must be true, and the other must be false. There cannot be two false complaints. Therefore, the respondent should have filed only one final report. The learned Magistrate also failed to consider the guidelines set out by the Hon'ble Full Bench, resulting in a non-application of mind in taking cognizance. Hence, the learned senior counsel prays to quash C.C.No.200 of 2024.



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4. The learned senior counsel appearing for the second respondent/defacto complainant in the other case, Crime No. 388 of 2023, would submit that there are two separate complaints, and the investigating agencies conducted the investigations and filed charge sheets. It is for the learned Magistrate to assess the veracity of the complaints and determine which one is true and which one is false. Furthermore, no charges have been framed, and no trial has taken place. Therefore, the petition filed by the petitioners is premature. There is no prohibition for filing two separate charge sheets for two separate complaints, and it is left to the learned Magistrate to decide the case and conduct the trial for both complaints simultaneously and jointly.

5. The learned Additional Public Prosecutor appearing for the first respondent-Police also stated that there are two separate complaints, and the investigating agencies by following Police Standing Order conducted the investigations and filed charge sheets. Hence, the learned Additional Public Prosecutor prays to dismiss the petition.

6. Heard the learned counsel on both sides and perused the materials available on record.



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7. Admittedly, there is only one incident or cause of action, but two separate complaints have been filed. Though not explicitly mentioned as counter cases, two complaints were taken on record, and the investigating agencies conducted the investigation. As pointed out by the learned senior counsel for the petitioners, there is no substantive difference between the two cases, and both investigations have resulted in the filing of two separate charge sheets. However, considering the fact that there is only one incident or cause of action, it is not appropriate to have two separate charge sheets contradictory to each other. If there are multiple accused, their involvement should be clearly specified in a single charge sheet. The law mandates that for one cause of action, there must be only one charge sheet. It is the duty of the prosecution to conduct a fair investigation and file a charge sheet. It is for the learned Magistrate to assess the veracity of the charge sheet and the statements of the witnesses during the trial. At this juncture, it would be useful to refer the judgment of Full Bench of this Court in **T. Balaji & T. Rajakumari v. The State and Anr.**, [(2024) 3 MLJ (CrI.)458], wherein, inter-alia, it has been held as follows:-

"Where two final reports are filed in a case and counter case, it is the duty of the Magistrate to scrutinize the final reports carefully. If it is found that the final reports put forward inconsistent rival versions of the same incident (ie., if one version is true the other must necessarily be false), or where it is found that the IO has filed two final reports mechanically without properly investigating and finding out the true aggressor the Magistrate shall return the final reports and direct the IO to come up with a definitive case."



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Therefore, the continuation of two separate charge sheets for the same cause of action is inappropriate and should not be allowed.

8. In view of the decisions rendered by the Full Bench of this Court, as referred above, this Court is inclined to quash both charge sheets. Accordingly, both the charge sheets are quashed. Consequently, both the Investigating Officer and the learned Magistrate are directed to adhere to the guidelines set forth by the Full Bench of this Court in paragraph No. 58 of the judgment in ***T. Balaji & T. Rajakumari v. The State and Anr., [(2024) 3 MLJ (CrI.)458]***.

9. With the above directions, this criminal original petition is disposed of. Consequently, connected miscellaneous petitions are closed.

09.12.2024

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No

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To

- 1.The Sub-Inspector of Police,
F-5, Choolaimedu Police Station,n
Anna Nagar, Chennai.
- 2.The XVII Metropolitan Magistrate,
Saidapet.
3. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J

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Crl.M.P.Nos.15422 & 15423 of 2024**

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