



Crl.O.P.(MD).No.713 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 15.07.2024

CORAM

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

Crl.O.P.(MD).No.713 of 2023

and

Crl.M.P.(MD).No.673 of 2023

Kathiravan

... Petitioner/Accused No.2

Vs.

1.The Inspector of Police,
Madagupatti Police Station,
Sivagangai District.
(Crime No.26/2015)

...1st Respondent/Complainant

2.Thangaya

.. 2nd Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records connected with the charge sheet in C.C.No.346 of 2016 pending on the file of the learned Judicial Magistrate No.I, Sivagangai and quash the same.

For Petitioner	: Mr.N.Jeyaram Sidharth
For R-1	: Mrs.M.Aasha Government Advocate (Crl.side)
For R-2	: No appearance



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ORDER

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The present Criminal Original Petition is filed by the petitioner/A2, seeking to quash the final report filed in C.C.No.346 of 2016 on the file of the learned Judicial Magistrate No.I, Sivagangai.

2. The allegation against the petitioner is that the defacto complainant/P.W.1's son namely Chandrasekar is having a matrimonial dispute with the sister of A1. A2 to A4 are the relatives of A1 and in support of A1, on 11.02.2015 at about 18.30 hours while the defacto complainant was speaking with one Latha in front of her house, this petitioner along with three other accused came there and due to previous enmity, A1 and A2 attacked the defacto complainant with wooden log repeatedly and A3 and A4 have criminally threatened the defacto complainant.

3. Based on the complaint lodged by the defacto complainant, the respondent police has conducted an investigation and filed the final report. It was taken cognizance by the Judicial Magistrate No.I, Sivagangai in



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C.C.No.346 of 2016 for the offences under Sections 294(b), 323, 324, 326 and 506(ii) IPC.

4. Being aggrieved by the final report filed against the petitioner, he has come forward with this petition to quash the criminal proceedings initiated against him.

5. The learned counsel appearing for the petitioner would submit that the petitioner is not having any specific overt-act and he has been falsely implicated in this case since he was having some previous cases. He has not participated in the occurrence and prays to quash the proceedings.

6. Per contra, the learned Government Advocate (Crl.side) appearing for the first respondent would submit that there is a specific overt-act attributed against the petitioner herein that he has wielded the wooden log and attacked the L.W.1 and caused fracture on the right hand. Similarly, other accused also joined with him and attacked the defacto complainant and the statements recorded from the witnesses, who have seen the



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occurrence and the medical records are also supported the case of the prosecution. Hence, she prays to dismiss the quash petition.

7. I have carefully considered the submissions made on both sides and perused the materials available on record.

8. The inherent jurisdiction of this Court under Section 482 Cr.P.C for quashing criminal proceedings are well settled. Recently in ***Pramod Suryabhan Pawar Vs. State of Maharashtra and another*** reported in ***(2019) 9 SCC 608***, the Hon'ble Apex Court has reiterated the legal position in the following manner:

"6. Section 482 is an overriding section which saves the inherent powers of the court to advance the cause of justice. Under Section 482 the inherent jurisdiction of the court can be exercised (i) to give effect to an order under CrPC; (ii) to prevent the abuse of the process of the court; and (iii) to otherwise secure the ends of justice. The powers of the court under Section 482 are wide and the court is vested with a significant amount of discretion to decide whether or not to exercise them. The court should be guarded in the use of its extraordinary jurisdiction to quash an FIR or criminal proceeding as it denies the prosecution the opportunity to



establish its case through investigation and evidence. These principles have been consistently followed and reiterated by this Court. In Inder Mohan Goswami v. State of Uttaranchal [Inder Mohan Goswami v. State of Uttaranchal, (2007) 12 SCC 1 : (2008) 1 SCC (Cri) 259] , this Court observed : (SCC p. 10, paras 23-24)

“23. This Court in a number of cases has laid down the scope and ambit of courts' powers under Section 482 CrPC. Every High Court has inherent powers to act ex debito justitiae to do real and substantial justice, for the administration of which alone it exists, or to prevent abuse of the process of the court. Inherent power under Section 482 CrPC can be exercised:

- (i) to give effect to an order under the Code;*
- (ii) to prevent abuse of the process of the court, and*
- (iii) to otherwise secure the ends of justice.*

24. Inherent powers under Section 482 CrPC though wide have to be exercised sparingly, carefully and with great caution and only when exercise is justified by the tests specifically laid down in this section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the court would be justified in preventing injustice by invoking inherent powers in absence of specific provisions in the statute.”



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7. *Given the varied nature of cases that come before the High Courts, any strict test as to when the court's extraordinary powers can be exercised is likely to tie the court's hands in the face of future injustices. This Court in State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] conducted a detailed study of the situations where the court may exercise its extraordinary jurisdiction and laid down a list of illustrative examples of where quashing may be appropriate. It is not necessary to discuss all the examples, but a few bear relevance to the present case. The Court in Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] noted that quashing may be appropriate where : (SCC pp. 378-79, para 102)*

“102. ... (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 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).



(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.”

8. In deciding whether to exercise its jurisdiction under Section 482, the Court does not adjudicate upon the veracity of the facts alleged or enter into an appreciation of competing evidence presented. The limited question is whether on the face of the FIR, the allegations constitute a cognizable offence. As this Court noted in Dhruvaram Murlidhar Sonar v. State of Maharashtra, [(2019) 18 SCC 191 : 2018 SCC OnLine SC 3100] , (Dhruvaram Sonar) : (SCC para 13)

“13. It is clear that for quashing the proceedings, meticulous analysis of factum of taking cognizance of an offence by the Magistrate is not called for. Appreciation of evidence is also not permissible in exercise of inherent powers. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken, it is open to the High Court to quash the same in exercise of its inherent powers.” "



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9. In this case, the statement of L.W.1 and other witnesses speaks about the role of the petitioner including the using of wooden log. After abusing the defacto complainant with filthy language, initially, A1 and A2 attacked him with wooden log on his head, hand and other places which resulted in several injuries and also fracture on right hand. The other two accused alleged to be used wooden log and attacked the defacto complainant. Immediately, after the occurrence, the defacto complainant was also taken to the Ganga Medical College Hospital and the Accident Register copy was also issued and the Medical Officer, who attended the defacto complainant, has also given a statement under Section 161 Cr.P.C. The Accident Register coupled with statement of witnesses including the injured shows that the offences alleged are prima facie case against the petitioner. The allegations set out in the complaint constitute a cognizable offence and this Court is of the view that the veracity of the statements made by the witnesses, its truthfulness or otherwise can be considered only after full fledged trial. Therefore, this Court finds no merits in the quash petition and the same is liable to be dismissed.



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WEB COPY 10. Accordingly, the Criminal Original Petition is dismissed.

Consequently, connected miscellaneous petition stands closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1.The Judicial Magistrate No.I,
Sivagangai.

2.The Inspector of Police,
Madagupatti Police Station,
Sivagangai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.RAJASEKAR,J.

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