



CrI.O.P.(MD)No.1633 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **23.01.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CrI.O.P.(MD) No.1633 of 2022

and

CrI.M.P.(MD).No.1179 of 2022

Jayanthi

... Petitioner/Accused No.1

Vs.

1.The State through
the Inspector of Police,
Papanasam Police Station,
Thanjavur District.
(Crime No.788 of 2021)

2.Vijaykumar

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the Crime No.788 of 2021 on the file of the first respondent and quash the same insofar as the petitioner is concerned.

For petitioner

: Mr.B.Jameel Arasu

For R-1

: Mr.B.Namibselvan,
Additional Public Prosecutor

For R-2

: Mr.G.Thalaimutharasu



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ORDER

This petition has been filed seeking to quash the case in Crime No.788 of 2021 on the file of the first respondent Police.

2. The case of the prosecution is that due to matrimonial dispute, the petitioner herein abused the *defacto* complainant with filthy language and also threatened him by showing knife. Hence, the *defacto* complainant made a complaint before the respondent Police and the respondent Police registered a case in Crime No.788 of 2021 against the petitioner for the alleged offences punishable under Sections 147, 148, 447, 324 and 506(ii) of I.P.C .

3. The learned counsel appearing for the petitioner would submit that in order to wreck vengeance against the petitioner, a false case has been foisted against the petitioner. He would further submit that the occurrence took place on 03.12.2021 and the complaint came to be registered only on 10.12.2021 with an inordinate delay and such delay has not been properly explained by the prosecution.

4. Heard the learned Additional Public Prosecutor appearing for the first respondent Police.



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5. In the considered opinion of this Court, the delay in lodging the FIR is a question of fact and the reasons for the delay has to be looked into only during the investigation. Useful reference in this regard can be had to the decision of the Apex Court in ***State of Haryana – Vs - Bhajan Lal (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



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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



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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.”

6. Under such circumstances, FIR in Crime No.788 of 2021 cannot be quashed. Accordingly, this petition is dismissed. However, the respondent Police shall conduct the investigation and take action in accordance with law. Consequently connected Miscellaneous Petition is closed.

23.01.2024

Index : Yes/No
Internet : Yes/No
TSG



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M.DHANDAPANI. J.

TSG

To

1. The Inspector of Police,
Papanasam Police Station,
Thanjavur District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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