



Crl.O.P.(MD)No.5200 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.02.2024

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD)No.5200 of 2022

and

Crl.M.P.(MD)No.3669 of 2022

Balamurugan

... Petitioner

Vs.

Pitchai

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.966 of 2017 on the file of the District Munsif cum Judicial Magistrate, Thiruppuvanam and quash the same as illegal.

For Petitioner : Mr.T.Lenin Kumar

For Respondent : Mr.P.Aju Tagore



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ORDER

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This Criminal Original Petition has been filed to quash the proceedings in C.C.No.966 of 2017 on the file of the District Munsif cum Judicial Magistrate, Thiruppuvanam.

2.The case of the prosecution is that the on 26.05.2003, the respondent's cousin was married to the petitioner and thereafter, they lived in Chennai. In 2015, the petitioner contacted the respondent's sister and told her that he filed a petition for divorce against his wife and the same is pending. In order to pacify the issue, the respondent and other relatives went to Chennai. The wife of the petitioner gave a copy of the divorce petition in HMOP.No.485 of 2015 to the respondent. When the respondent read the same he was shocked that the petitioner made false allegation as the wife of the petitioner is living at Thiruppuvanam with the respondent herein. When the respondent asked about the false allegation made in the divorce petition, the petitioner replied that the respondent is a village man and in order to humiliate the reputation of the respondent in his village, he made such allegation. Therefore, the



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respondent filed a private complaint before the District Munsif cum Judicial Magistrate, Thiruppuvanam. The learned Magistrate had taken cognizance of the case in C.C.No.966 of 2017 for the offence punishable under Section 500 IPC. Challenging the same, the present petition came to be filed.

3.The learned counsel appearing for the petitioner submitted that the averments made in the complaint would not attract any penal provision and the respondent nowhere in his complaint alleged that somebody read the allegations made in the divorce petition and asked about the same with the respondent. When nobody knew about the allegations made against the respondent, the version of the respondent that the petitioner lowered his reputation is false. Therefore, he prayed to quash the impugned private complaint.

4.The learned counsel appearing for the respondent submitted that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and hence, he prayed to dismiss the present petition.



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5. Heard the learned counsel on either side and perused the materials available in the record.

6. Time and again, this Court as well as the Supreme Court has cautioned the courts about the necessary precautions to be taken while quashing the criminal proceedings at the initial stage. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)***.

7. In the above circumstances, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioner if he is subjected to due trial as sufficient opportunity would be given to the petitioner to put forth his defence. The petitioner cannot be let by quashing the charge framed against him as that would completely undermine the alleged acts, which is the subject matter of criminal trial pending against him.

8. For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.966 of 2017, pending on the file of the learned District



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Munsif cum Judicial Magistrate, Thiruppuvanam. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petition is closed.

9.At this juncture, the learned counsel appearing for the petitioner submitted that this Court may consider dispensing with the personal appearance of the petitioner before the court below. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

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NCC : Yes / No
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M.DHANDAPANI,J.

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To

The District Munsif cum Judicial Magistrate,
Thiruppuvanam.

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