



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 18.03.2024

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL. O.P. (MD) NO.10483 OF 2022

AND

CRL. M.P. (MD) NO. 6547 OF 2022

Steanila @ Stanila

.. Petitioner

- Vs -

1.State Rep. By
The Inspector of Police,
Colachel Police Station,
Nagercoil,
Kanyakumari District.

2.Asha

.. Respondents

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records pertaining to the case registered in impugned charge sheet in C.C. No.210 of 2020 on the file of the learned Judicial Magistrate, Eraniel, Kanyakumari District in connection with Crime No.48 of 2019 on the file of the 1st respondent police and quash the same as illegal.



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For Petitioner : Mr. R.L.Dhilipan Pandian, for
Mr. S.Thangaraj

For Respondents : Mr. P.Kottaichamy, GA (Crl. Side)
for R-1
Mr. G.Anto Prince for R-2

ORDER

Seeking quashment of the charge sheet in C.C. No.210 of 2020 on the file of the learned Judicial Magistrate, Eraniel, Kanyakumari District, the present petition has been filed by the petitioner invoking the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure.

2. The brief facts of the case, as could be culled out from the affidavit filed in support of the petition are as under :-

It is the case of the petitioner that on the basis of the petition in Crl. M.P. No.896 of 2019, given by the defacto complainant u/s 156 (3) Cr.P.C. before the learned Judicial Magistrate, Eraniel, Kanyakumari District, seeking to register a case, the Court below had directed the 1st respondent to register a case against the petitioner and five others.



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3. The complaint of the defacto complainant, it is alleged, that the marriage between the defacto complainant and the 1st accused was solemnized as per Christian rites and customs for which the petitioner, who is the sister of the 1st accused and who is residing in Kwait along with her husband, came to India on 12.08.2017 for attending the weeding. It is the further case of the petitioner that after attending the wedding, she returned back to Kuwait on 25.8.2017. Thereafter, the petitioner visited India in the year 2022 for the purpose of some registration activities. But for the aforesaid two visits, the petitioner had not come to India nor had partaken in the pre-wedding festivities. However, out of the blue, the defacto complainant had lodged the complaint in the year 2018 by arraying the petitioner as an accused, with an intention to harass the petitioner. It is the further case of the petitioner that though in the complaint, allegations with regard to some conversation which the petitioner is alleged to have made with the defacto complainant and her parents is shown, yet no materials have been placed to substantiate the same. Only with a view to harass the petitioner, the petitioner has been roped in as an accused in the case, which has been mechanically directed to be registered by the learned Judicial Magistrate, culminating in the registration of the FIR in Crime No.48/2019. Assailing the said order and the inclusion of the



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petitioner's name as one of the accused, which is bereft of any materials, the present petition has been filed to quash the case registered against the petitioner.

4. Learned counsel appearing for the petitioner submits that initially a complaint was lodged by the defacto complainant with the Superintendent of Police, Kanyakumari on 30.08.2018 in which the petitioner's name does not find a place and there has been no allegation made against the petitioner. Yet, when the complaint was given before the Magistrate u/s 156 (3) Cr.P.C., curiously the name of the petitioner has been shown and certain imputations have been attributed against her as if she had talked to the defacto complainant over phone and had demanded and had also threatened the petitioner.

5. It is the further submission of the learned counsel that the act of the defacto complainant in including the name of the petitioner and imputing allegations against her is a clear after thought only to bolster the case against the other accused and only with a vindictive attitude, the defacto complainant had roped in the petitioner into the case to harass her. It is the further submission of the learned counsel that no pointed allegations have been made, but allegations of



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general nature as to some calls, which are alleged to have been made by the petitioner to the defacto complainant demanding dowry and threatening her are made and further, the details as to when the calls were made along with materials to substantiate the same have not been filed, which clearly shows that only to harass the petitioner, the petitioner has also been roped into the case. Therefore, learned counsel submits that it is a fit case, where this Court should invoke its inherent power u/s 482 Cr.P.C. and quash the case and prays for an affirmative relief.

6. Per contra, learned counsel appearing for the 2nd respondent submitted that on numerous occasions, the petitioner had threatened the defacto complainant and had also demanded dowry from the parents of the defacto complainant. Learned counsel further submitted that the non-inclusion of the petitioner's name in the complaint filed before the law enforcing agency at the first instance cannot alone be the basis to justify that inclusion was as after-thought. Rightly appreciating all the materials, the learned Magistrate had directed registration of the case, culminating in the registration of the crime, which does not require any interference and, accordingly, prays for dismissal of the present petition.



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7. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing for the petitioner and the 2nd respondent and perused the materials available on record.

8. 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 charge sheet at the initial stage. 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



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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 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



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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.”

(Emphasis Supplied)

9. The above decision of the Supreme Court unambiguously makes it clear that this Court can exercise the extra-ordinary power under Article 226 of the Constitution or the inherent powers under Section 482 of Code of Criminal Procedure either to prevent abuse of the process of any Court or otherwise to meet the ends of justice. Further, if the charge do not disclose a cognizable offence and make out a case against the accused, and 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 where the proceeding is



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maliciously instituted with an ulterior motive for wreaking vengeance on the accused due to private and personal grudge and where there is an express legal bar engrafted in any of the provisions of the Code, then the Court can interfere with the charge sheet/complaint.

10. In the above backdrop, the pivotal contention of the petitioner is that the offence alleged is merely an after-thought as at the earliest point of time, when the complaint was filed before the Superintendent of Police, Kanyakumari, no allegation has been raised against the petitioner.

11. In this backdrop, a careful perusal of the complaint given by the defacto complainant before the Superintendent of Police, Kanyakumari on 30.08.2018 reveals that allegations have been raised only against five persons and no allegation has been made against the petitioner. However, curiously, when the private complaint was filed u/s 156 (3) Cr.P.C., before the Court, the petitioner has been roped in as an accused and shown at S. No.4. The private complaint has been filed before the Magistrate during Dec., 2018 in which certain allegations have been made against the petitioner.



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12. The sum and substance of the allegation against the petitioner is that she had threatened the defacto complainant through phone calls and also demanded dowry. The presence of the petitioner is not alleged by the defacto complainant. In this regard, the petitioner has averred that she had attended the marriage in the year 2017 and, thereafter, she had come to India from Kuwait only in the year 2022 for the purpose of some registration.

13. There is no iota of allegation made against the petitioner by the defacto complainant in the complaint dated 30.08.2018 before the Superintendent of Police, Kanyakumari. However, within a span of about three and a half months, when the private complaint was filed before the Magistrate, stand has been taken by the defacto complainant by alleging that the petitioner had made threatening calls to the defacto complainant and her parents and demanded dowry. This would clearly go to show that even if it is to be presumed, without admitting that calls were made by the petitioner, the said calls would have been made only between the aforesaid three and a half months period, viz., between the date of filing the complaint before the Superintendent of Police and the private complaint



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before the Magistrate. If really such threatening calls were made by the petitioner to the defacto complainant and to her parents, definitely the call details thereof would be very much available with the defacto complainant, which could have been cited as material to substantiate the allegations against the petitioner. However, for reasons best known, such details have not been provided by the defacto complainant.

14. In this scenario, the complaint given before the Superintendent of Police by the defacto complainant assumes significance, as in the said complaint, there is no whisper from the defacto complainant with regard to any threat meted out by the petitioner. Therefore, the only inference that could be drawn is that the threat could be only subsequent to the complaint given before the Superintendent of Police, Kanyakumari, in which event, necessarily details with regard to such calls would be available with the defacto complainant to substantiate her allegations.

15. When the defacto complainant had made pointed allegations with more reference to dates and events with regard to other accused, who were arrayed



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before the Superintendent of Police, however, curiously, no such instances or details or call records are made available by the defacto complainant with regard to the threat alleged to have been meted out by the petitioner.

16. It has, of late, become a luxurious pastime for one spouse to make allegations and aspersions not only against the other spouse by invoking the provisions of the Domestic Violence Act and Dowry Prohibition Act, but also include all the members of the family within the periphery and allege that they too joined the spouse and the in-laws to make such demand. This not only leads to causing mental agony on such persons, who have not done anything, but also create a friction in the family of such person. Moreso, when allegations of the aforesaid nature are made against the sister-in-law, as in this case, in many circumstances, the sister-in-law's husband is also roped in, which trend not only breaks the familial bond, but creates an eerie atmosphere within the family. The laws, which are made to safeguard one spouse from being inflicted with pain and suffering at the hands of the other spouse, be it in the form of domestic violence or dowry harassment, it is being, often, misused by one spouse against the other spouse, if there is no cordial climate of understanding between the couples,



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thereby, the members of the family, who seldom know about the friction between the couples are also sucked into the vortex of domestic violence and dowry harassment.

17. The present case is of one such nature where the petitioner, who is the sister-in-law of the 1st accused, who is residing in Kuwait, is being pulled into the web of penal action by the defacto complainant, without there being any scintilla of evidence tabled against her, moreso, when there is no material to suggest that the petitioner had either come in person and made threats to the defacto complainant and her parents and equally there is also no substantive material to even infer that the petitioner had made calls to the defacto complainant and her parents and had meted out threats to them and had demanded dowry.

18. Further, one more aspect which is to be pointed out is that even while filing the charge sheet against the petitioner, the call details, which are the only connecting link to connect the petitioner with the threat alleged by the defacto complainant has not been placed before the court and, therefore, the cognizance taken by the court below against the petitioner is devoid of any material. When



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no evidence is available on record to make out the threat alleged to have been meted out by the petitioner to the defacto complainant and her parents, the court below ought not have taken cognizance of the complaint as against the petitioner by directing the 1st respondent to register a case against her, which squarely falls within the dictum laid down by the Apex Court in *Bhajan Lal's case (supra)* and this Court is, therefore, of the considered opinion that this is a fit case for quashing the case as against the petitioner herein.

19. For the reasons aforesaid, the charge laid against the petitioner cannot be allowed to survive and, accordingly, this Court quashes the proceedings in C.C. No.210 of 2020 on the file of the learned Judicial Magistrate, Eraniel, Kanyakumari District, as against the petitioner alone. The Criminal Original Petition is accordingly allowed. Consequently, connected miscellaneous petition is closed.

18.03.2024

Index : Yes / No

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To

- The Judicial Magistrate
Eraniel, Kanyakumari District.
- The Inspector of Police
Colachel Police Station
Nagercoil, Kanyakumari District.
- The Addl. Public Prosecutor
Madurai Bench of Madras High Court
Madurai.



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M.DHANDAPANI, J.

GLN

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