



CRL OP(MD). No.10505 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.07.2024

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THE HON'BLE MR.JUSTICE B.PUGALENDHI

CRL OP(MD). No.10505 of 2024
and
CrI.M.P.(MD)No.7070 of 2024

Parathesiammal

... Petitioner

versus

1. State through
The Inspector of Police,
Sawyerpuram Police Station,
Thoothukudi District.

2. Murugan

... Respondents

Prayer : Criminal Original Petition filed under Section 528 of BNSS (under Section 482 Cr.P.C.), to call for the records pertaining to the Crime No.166/2023 dated 06.11.2023 on the file of the 1st respondent Police and quash the same.

For Petitioner : Mr.K.Suyambulinga Bharathi

For R1 : Mr.M.Sakthi Kumar
Government Advocate (Crl. Side)



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ORDER

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The petitioner is the second accused in Crime No.166 of 2023 for the offence punishable under Sections 294(b), 406, 420 and 506(ii) IPC. She has filed this petition to quash the FIR in Crime No.166 of 2023 which is pending against her.

2. The petitioner is the wife of the first accused. According to her, the first accused is having a Temple in Samathuvapuram, Thoothukudi District. The defacto complainant has approached the first accused and got permission to run a shop in front of the temple. The defacto complainant, in the course of his business, borrowed a sum of Rs.6,00,000/- from the first accused, for which, the first accused has filed a suit in O.S.No.48 of 2024 against the defacto complainant before the Sub Court, Thoothukudi. In order to wreck vengeance, the defacto complainant has foisted this case as if the accused Nos.1 and 2 have approached him and received money for the purpose of purchase of a house and cheated him.



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3. The learned counsel appearing for the petitioner submits that this is a motivated complaint. Apart from that, the nature of the complaint is purely civil in nature. Therefore, the Police officials are barred from conducting the investigation as per the Police Standing Order 548.

4. The learned Government Advocate (Crl. side) submits that the case was registered only in the month of November 2023. The case is under investigation and they have not filed the final report so far.

5. This Court considered the rival submissions made.

6. The petitioner is the second accused in Crime No.166 of 2023 and she is the wife of the first accused. The petitioner claims that she is only a house wife. The petitioner has also made out a case that the first accused is having a dispute with the defacto complainant and he has also filed a suit as against the defacto



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complainant in O.S.No.48 of 2024. All these points which have been raised by the petitioner are matter for investigation. Therefore, this Court is not inclined to quash the proceedings on the grounds raised in support of this petition.

7. The grounds raised by the petitioner can be appreciated only by the investigating agency during the course of investigation. The duty of the investigating agency is to find out the truth, by conducting a fair investigation. The investigating agency is expected to conduct the investigation by considering all the points and grounds raised by the petitioner/accused. The investigating agency is not expected to conduct the investigation in a mechanical manner based on the statement of the defacto complainant and the witnesses placed by the defacto complainant. Therefore, this Court, hoping that the investigating agency would conduct a fair investigation in this case, is not inclined to interfere with this petition at this stage.



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8. Accordingly, this Criminal Original Petition is dismissed.

If any case is made out against the petitioner, it is always open to the respondent Police to file a final report. In event of filing a final report before the concerned Magistrate, the petitioner is also having a remedy to challenge the final report if she is having any grounds. Consequently, connected miscellaneous petition is closed.

15.07.2024

Index : Yes / No.

Internet : Yes / No.

NCC : Yes / No.

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To

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



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B.PUGALENDHI, J.

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