



Crl.O.P.(MD)No.16968 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.16968 of 2024

and

Crl.MP.(MD)Nos.10674 & 10675 of 2024

Kabilan

... Petitioner

Vs.

1.Suseela

2.Rajathi (Minor)

3.Jayasheela(Minor)

(R2 & R3 represented by their mother and natural guardian/Suseela/first respondent)

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records in STC.No.06 of 2023 on the file of the Additional Mahila Court, JM Level, Pudukkottai and quash the same.

For Petitioner : Mr.A.Sivasubramanian



Crl.O.P.(MD)No.16968 of 2024

ORDER

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This criminal original petition has been filed seeking orders to quash the proceedings in STC.No.06 of 2023 on the file of the Additional Mahila Court, JM Level, Pudukkottai.

2.It is evident from the records that the first respondent has filed a petition in DVC.No.19 of 2022 before the Additional Mahila Court, Pudukottai and the learned Judge has passed an order for payment of interim maintenance, that since the same was not complied with, the respondents have preferred a complaint and on that basis, the case was taken on file in STC.No.06 of 2023 by the Additional Mahila Court, JM Level, Pudukkottai.

3.The main contention of the petitioner is that Section 31(2) of the Domestic Violence Act will attract only for non-compliance of the protection order. But, a learned single Judge of this Court in S.Amalraj Vs. State rep.by Inspector of Police, Town Police Station, Devakottai and another in Crl.O.P.(MD)No.15704 of 2018 dated 06.03.2023 has held that even for non-compliance of payment of orders, Section 31(2) of the



CrI.O.P.(MD)No.16968 of 2024

Act can be invoked. Except the above, the petitioner has not shown any other valid reason or ground to quash the complaint.

4.The Hon'ble Supreme Court in the case of ***State of Haryana and others Vs. Bhajan Lal and others*** reported in ***1992 SCC (Cri) 426*** has enumerated 7 categories of cases, where the power can be exercised under Section 482 of Code of Criminal Procedure and the same are extracted hereunder:-

“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 extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of 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



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



CrI.O.P.(MD)No.16968 of 2024

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 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.”

5.In ***Dr.Dhruvaram Murlidhar Sonar Vs. The State of Maharashtra and others*** reported in ***2019 (18) SCC 191***, the Hon'ble Apex Court has specifically held that exercise of powers under Section



CrI.O.P.(MD)No.16968 of 2024

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482 Cr.P.C. to quash the proceedings is an exception and not a rule. It is settled law that the inherent jurisdiction under Section 482 Cr.P.C. is wide but at the same time, the same is to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the Section itself.

6.The Hon'ble Supreme Court in ***Kaptan Singh Vs. The State of Uttar Pradesh and others*** reported in ***2021 (3) Crimes 247*** has stated that, that Court in catena of decisions has observed that the High Court is not required to go into the merits of the allegations and/or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and/or conducting the trial and that question is required to be examined keeping in view, the contents of FIR/complaint and *prima facie* materials, if any, requiring no proof and at such stage, the High Court cannot appreciate evidence nor can it draw its own inferences from contents of FIR/complaint and materials relied on.

7.A cursory perusal of the records would make it clear that there existed a *prima facie* case to proceed against the petitioner. Considering the above and also taking note of the fact that this is not a fit case to



CrI.O.P.(MD)No.16968 of 2024

quash the private complaint in STC.No.539 of 2022 pending on the file of the learned Judicial Magistrate No.I, Pudukkottai against the petitioner, this Court concludes that this petition is devoid of merit and the same is liable to be dismissed.

8.In the result, this Criminal Original Petition stands dismissed.
Consequently, connected Miscellaneous Petitions are closed.

04.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
gns

To

The Additional Mahila Court, JM Level, Pudukkottai



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CrI.O.P.(MD)No.16968 of 2024

K.MURALI SHANKAR,J.

gns

CrI.O.P.(MD)No.16968 of 2024

04.10.2024