



Crl.O.P.(MD)No.18298 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.10.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.18298 of 2024

and

Crl.M.P.(MD)No.11355 of 2024

Rani

... Petitioner

Vs.

1.The State rep. by
Inspector of Police,
Medical College Police Station,
Tirunelveli City,
Tirunelveli District.
(Crime No.273 of 2023)

2.Muthupandi

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records pertaining to the FIR in Crime No.273 of 2023 on the file of the first respondent police and quash the same as illegal in so far as the petitioner is concerned.

For Petitioner : Mr.K.Althaf Sheriff
for M/s.Ajmal Associates

For R1 : Mr.P.Kottai Chamy
Government Advocate (Crl. Side)



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ORDER

The Criminal Original Petition has been filed, invoking Section 528 B.N.S.S., seeking orders to quash the FIR in Crime No.273 of 2023 pending on the file of the first respondent.

2. The petitioner is the second accused in Crime No.273 of 2023 on the file of Medical College Police Station, Tirunelveli City.

3. It is evident from the records that on the basis of the complaint given by the second respondent, FIR came to be registered in Crime No. 273 of 2023 on 04.12.2023 against two persons including the petitioner for the alleged offences under Sections 406, 420, 294(b) and 506(2) IPC.

4. The case of the prosecution is that the accused persons had received Rs.3 lakhs from the second respondent for getting Government job to the second respondent's daughter and cheated the second respondent and when the same was questioned by the second respondent, the accused persons abused him in filthy language and threatened him with dire consequences.



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5. According to the prosecution, it is a job racketing case.

6. The main contention of the petitioner is that the complaint does not disclose as to when the amount was given, that there is no specific overt act against the petitioner, who is the wife of the first accused and that though the incident was occurred on 02.03.2023, FIR came to be registered on 04.12.2023.

7. Even assuming that there existed delay in filing the complaint, that by itself is not a ground to quash the FIR at this stage. It is settled law that FIR cannot be considered as an encyclopedia so as to contain all the particulars or ingredients of the offence alleged and it is matter for investigation. Except the above, the petitioner has not canvassed any other reason or ground to quash the FIR.

8. As rightly contended by the learned Government Advocate (Criminal Side), in the FIR, the second respondent has specifically stated that when he went to the house of the accused, the petitioner has informed that they would get the appointment order.



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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



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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.”

10. 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 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.



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11. 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 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 and materials relied on.

12. It is pertinent to note that if the petition under Section 528 B.N.S.S., was filed at the stage of FIR, the allegations in the FIR/ complaint only are required to be considered and whether a cognizable offence is disclosed or not is required to be considered.

13. In the case on hand, as rightly contended by the learned Government Advocate (Criminal Side), a cursory perusal of the FIR makes out a *prima facie* case against the petitioner and contains specific



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allegations against the petitioner and it is a matter for investigation and as such, the question of quashing the FIR at this stage does not arise at all. Hence, this Court concludes that this is not a fit case to invoke Section 528 B.N.S.S., for quashing the FIR at this stage and the same is liable to be dismissed.

14. In the result, this Criminal Original Petition stands dismissed. The first respondent is directed to complete the investigation in Crime No.273 of 2023 and file a final report before the concerned Court within a period of four months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

25.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
csm

To
1. The Inspector of Police,
Medical College Police Station,
Tirunelveli City,
Tirunelveli District.



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2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Order made in
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Dated: 25.10.2024