



Crl.O.P.(MD).No.56 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.06.2024

CORAM

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

Crl.O.P.(MD).No.56 of 2023

and

Crl.M.P.(MD).No.56 of 2023

K.Pradeep Menon

... Petitioner/Sole Accused

Vs.

1.The State represented by
The Inspector of Police,
Kadalkudi Police Station,
Thoothukudi District.
(Crime No.26 of 2022)

... 1st Respondent/Complainant

2.Nujira Beevi

.. 2nd Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the impugned charge sheet in C.C.No.396 of 2022 on the file of the Judicial Magistrate, Vilathikulam, Thoothukudi District in Crime No.26 of 2022 dated 05.08.2022 for the offences under Section 294(b), 353, 506(2) of IPC and Section 4 of TNPWH Act, 2002 on the file of the Respondent No.1 and quash the same as illegal.



Crl.O.P.(MD).No.56 of 2023

For Petitioner : Mr.I.Pinaygash
For R-1 : Mr.RMS.Sethuraman
Additional Public Prosecutor
For R-2 : No appearance

ORDER

The present Criminal Original Petition is filed by the petitioner/sole accused, seeking to quash the final report filed in C.C.No.396 of 2022 on the file of the learned Judicial Magistrate, Vilathikulam, Thoothukudi District.

2. The case of the prosecution is that the second respondent/defacto complainant was working as a Saleswoman in the ration shop and since she did not regularly attend her work and was doing work with the help of her family members, aggrieved over the same, the petitioner/accused, on 04.08.2022, went to the ration shop and videographed the way in which the ration shop was run by the defacto complainant. Since the defacto complainant has been videographed by the accused, she has questioned him and there was a quarrel and the petitioner has abused her in filthy language and also criminally intimidated her with dire consequences. Immediately on



Crl.O.P.(MD).No.56 of 2023

the next day, she has lodged a criminal complaint before the respondent Police and based on the same, FIR was registered in Crime No.26 of 2022 for the offences under Sections 294(b), 353, 506(2) of IPC and Section 4 of TNPHW Act, 2002. After investigation, final report was filed and the same was taken on file in C.C.No.396 of 2022 under Sections 294(b), 353, 506(2) of IPC and Section 4 of TNPHW Act, 2002.

3. Being aggrieved by the final report filed against the petitioner, he has come forward with this petition to quash the criminal proceedings initiated against him.

4. The learned counsel for the petitioner submits that the petitioner was a whistle-blower and he used to do various public service activities. Since the ration shop was not properly managed by the officials, the petitioner has lodged complaint way back in the month of June 2022 and since no action was taken by the officials, he has also questioned the defacto complainant and even thereafter, the public services were not properly offered. To wreak vengeance for the activities of the petitioner for being a



CrI.O.P.(MD).No.56 of 2023

whistle-blower, a false complaint has been lodged against him with malafide intention and no such occurrence was taken place as stated in the FIR.

Hence, the learned counsel prays to quash the final report.

5. The learned Additional Public Prosecutor appearing for the first respondent submits that based on the complaint lodged by the defacto complainant/L.W.1, who is a public servant, a case has been registered and properly investigated. In the investigation, it is revealed that the petitioner came to the ration shop and had a quarrel with the defacto complainant, abused her and also criminally intimidated her with dire consequences, which prompted the defacto complainant to lodge the complaint. Statements were also recorded from the witnesses, which shows that the petitioner was present in the ration shop on the date of occurrence and abused the defacto complainant and committed the offences as stated in the FIR. Hence, he prays to dismiss the quash petition.

6. I have carefully considered the submissions made on both sides and perused the materials available on record.



Crl.O.P.(MD).No.56 of 2023

7. It is the case of the petitioner that the criminal case has been registered with malafide intention to wreak vengeance for the petitioner's act as a good citizen in lodging complaint to the officials for improper management of the ration shop. The petitioner has also produced his complaint lodged to the Taluk Supply Officer of Vilathikulam, regarding the improper services offered in the ration shop. This complaint was also properly considered by the Taluk Supply Officer and it has been closed stating that the complaint does not have any merits and contains bald allegations without providing essential ingredients to take action against the Saleswoman. These communications between the officials and the petitioner herein taken place till the month of June 2022.

8. On 05.08.2022, a complaint has been lodged by the second respondent/defacto complainant stating that the petitioner herein went to the ration shop on 04.08.2022 at about 11.30 AM and videographed her by using his cell phone without any prior permission. It was objected by the defacto complainant, for which, the petitioner has abused her in filthy language and also quarrelled with her. The defacto complainant had also warned the petitioner to move away from there, otherwise she would lodge a



Crl.O.P.(MD).No.56 of 2023

police complaint, for which, the petitioner has threatened her with dire consequences. These allegations are stated to be false allegations and according to the petitioner, he has not gone to the ration shop on the date of occurrence and no such occurrence was taken place, whereas, the photographs submitted by the petitioner in the typed set of papers, clearly show that the photographs were taken on 04.08.2022 at about 11.41 AM. As seen from the photographs, the defacto complainant was working and delivering the ration commodities to the general public. This photograph itself is sufficient to falsify the case of the petitioner that he has not gone to the place of occurrence on 04.08.2022.

9. The inherent jurisdiction of this Court under Section 482 Cr.P.C for quashing criminal proceedings are well settled. Recently in ***Pramod Suryabhan Pawar Vs. State of Maharashtra and another*** reported in ***(2019) 9 SCC 608***, the Hon'ble Apex Court has reiterated the legal position in the following manner:

"6. Section 482 is an overriding section which saves the inherent powers of the court to advance the cause of justice. Under Section 482 the inherent jurisdiction of the court can be exercised



(i) to give effect to an order under CrPC; (ii) to prevent the abuse of the process of the court; and (iii) to otherwise secure the ends of justice. The powers of the court under Section 482 are wide and the court is vested with a significant amount of discretion to decide whether or not to exercise them. The court should be guarded in the use of its extraordinary jurisdiction to quash an FIR or criminal proceeding as it denies the prosecution the opportunity to establish its case through investigation and evidence. These principles have been consistently followed and reiterated by this Court. In Inder Mohan Goswami v. State of Uttaranchal [Inder Mohan Goswami v. State of Uttaranchal, (2007) 12 SCC 1 : (2008) 1 SCC (Cri) 259] , this Court observed : (SCC p. 10, paras 23-24)

“23. This Court in a number of cases has laid down the scope and ambit of courts' powers under Section 482 CrPC. Every High Court has inherent powers to act ex debito justitiae to do real and substantial justice, for the administration of which alone it exists, or to prevent abuse of the process of the court. Inherent power under Section 482 CrPC can be exercised:

- (i) to give effect to an order under the Code;*
- (ii) to prevent abuse of the process of the court, and*
- (iii) to otherwise secure the ends of justice.*

24. Inherent powers under Section 482 CrPC though wide have to be exercised sparingly, carefully and with



great caution and only when exercise is justified by the tests specifically laid down in this section itself. Authority of the court exists for the advancement of justice. If any abuse of the process leading to injustice is brought to the notice of the court, then the court would be justified in preventing injustice by invoking inherent powers in absence of specific provisions in the statute.”

7. Given the varied nature of cases that come before the High Courts, any strict test as to when the court's extraordinary powers can be exercised is likely to tie the court's hands in the face of future injustices. This Court in State of Haryana v. Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] conducted a detailed study of the situations where the court may exercise its extraordinary jurisdiction and laid down a list of illustrative examples of where quashing may be appropriate. It is not necessary to discuss all the examples, but a few bear relevance to the present case. The Court in Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] noted that quashing may be appropriate where : (SCC pp. 378-79, para 102)

“102. ... (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 FIR 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).

(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.”

8. In deciding whether to exercise its jurisdiction under Section 482, the Court does not adjudicate upon the veracity of the facts alleged or enter into an appreciation of competing evidence presented. The limited question is whether on the face of the FIR, the allegations constitute a cognizable offence. As this Court noted in Dhruvaram Murlidhar Sonar v. State of Maharashtra, [(2019) 18 SCC 191 : 2018 SCC OnLine SC 3100] , (Dhruvaram Sonar) : (SCC para 13)

“13. It is clear that for quashing the proceedings, meticulous analysis of factum of taking cognizance of an



offence by the Magistrate is not called for. Appreciation of evidence is also not permissible in exercise of inherent powers. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken, it is open to the High Court to quash the same in exercise of its inherent powers.” ”

10. In this case, on perusal of records, it shows that there are statements recorded from the witnesses by the police, which supports the statement of the defacto complainant and those averments could not be brushed aside on the ground that these statements were made with malafide intention. Various communications relied on by the petitioner to show that the complaint was lodged with malafide intention, would only show that they were complaints lodged by the petitioner against the officials of the ration shop in the month of June 2022. Thereafter, two months later, the occurrence had taken place and it cannot be stated to be false allegations since the presence of the petitioner is admitted in the place of occurrence and the FIR also clearly shows that on 04.08.2022 at about 11.30 AM, the petitioner went to the ration shop and quarrelled with the defacto complainant, abused her and threatened her with dire consequences. The



Crl.O.P.(MD).No.56 of 2023

allegations set out in the complaint constitute a cognizable offence and this Court is of the view that the veracity of the statements made by the witnesses, its truthfulness or otherwise can be considered only after full fledged trial. Therefore, this Court finds no merits in the quash petition and the same is liable to be dismissed.

11. Accordingly, the Criminal Original Petition is dismissed.
Consequently, connected miscellaneous petition stands closed.

12.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Judicial Magistrate,
Vilathikulam,
Thoothukudi District.
- 2.The Inspector of Police,
Kadalkudi Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD).No.56 of 2023

K.RAJASEKAR,J.

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Crl.O.P.(MD).No.56 of 2023

12.06.2024