



Crl.O.P.(MD).No.167 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 07.06.2024

CORAM

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

Crl.O.P.(MD).No.167 of 2023
and
Crl.M.P.(MD).No.130 of 2023

Selvenderan

.. Petitioner/Accused No.1

Vs.

1.The State represented by its,
The Inspector of Police,
Kulithalai Police Station,
Kulithalai,
Karur District.
(Crime No.52 of 2020)

.. 1st Respondent/Complainant

2.Vijayaragavan

.. 2nd Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the complaint in C.C.No.29 of 2022 on the file of the Judicial Magistrate No-II, Kulithalai and quash the same as illegal as against the petitioner.

For Petitioner : Mr.K.Arunraj
For R-1 : Mr.RMS.Sethuraman
Additional Public Prosecutor



Crl.O.P.(MD).No.167 of 2023

ORDER

WEB COPY

The present Criminal Original Petition is filed by the accused in C.C.No.29 of 2022 on the file of the learned Judicial Magistrate-II, Kulithalai, seeking for quash of the criminal proceedings initiated against him.

2. In the final report, the allegations levelled against the accused are as follows:

On 11.02.2020, at about 11.30 AM, while the second respondent/defacto complainant was driving his two wheeler bearing Registration No. TN 47 AU 8794 from Kudaloor to Mangammal Salai main road near by Bridge Tower, the petitioner waylaid the defacto complainant, assaulted him and threatened him with dire consequences. The final report was filed stating that the petitioner/accused committed the offences under Sections 341, 294(b), 323, 324 and 506(2) IPC.

3. The learned counsel for the petitioner would submit that the originally the defacto complainant/victim has given a statement that he was waylaid by four persons including the petitioner and they have taken away



Crl.O.P.(MD).No.167 of 2023

the jewels and threatened him. However, subsequently after investigation, the unknown accused were dropped and final report has been filed only against the petitioner herein. He would further submit that the petitioner has not attacked the defacto complainant and there is no other material available to implicate the petitioner or to frame a charge against the petitioner herein. Hence, he prays to quash the proceedings initiated against the petitioner.

4. Per contra, the learned Additional Public Prosecutor appearing for the first respondent reports that it is true that in the statement recorded from the defacto complainant, he has stated that four persons have attacked him. Subsequently, further statement was recorded on 13.02.2020, wherein, it has been clarified by the defacto complainant that he was attacked only by the petitioner/accused by using wood and that the petitioner abused him in filthy language and criminally intimidated him. Based on statements recorded, final report has been filed. Hence, he prays for dismissal of the quash petition.



5. I have carefully considered the submissions made on both sides and perused the records.

6. The inherent jurisdiction of the Court under Section 482 Cr.P.C is 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 :



WEB COPY



Crl.O.P.(MD).No.167 of 2023

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.”



WEB COPY

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.” ”

7. In this case, on perusal of records, it shows that in the first statement recorded from the defacto complainant, he has implicated four persons and subsequently, he changed his version during his further statement that the petitioner herein has waylaid him, attacked him and criminally intimidated him with dire consequences. Similarly, the statement



Crl.O.P.(MD).No.167 of 2023

of the other witnesses were also recorded and these statements would show that the allegations constitute cognizable offence against the petitioner herein. Since the statements are available against the petitioner herein, it cannot be stated that there is no material available against the petitioner. Since those facts have to be disputed only by way recording of evidence and cross-examination of witnesses, I am of the view that there is no ground to quash the final report.

8. In the result, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition stands closed.

07.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm



Crl.O.P.(MD).No.167 of 2023

To

WEB COPY

- 1.The Judicial Magistrate-II,
Kulithalai.
- 2.The Inspector of Police,
Kulithalai Police Station,
Kulithalai,
Karur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD).No.167 of 2023

K.RAJASEKAR,J.

Lm

Crl.O.P.(MD).No.167 of 2023

07.06.2024