



Crl.O.P.(MD).No.18 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.06.2024

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THE HONOURABLE MR.JUSTICE K.RAJASEKAR

Crl.O.P.(MD).No.18 of 2023

and

Crl.M.P.(MD).No.16 of 2023

K.Manimaran @ Manoharan

.. Petitioner/Sole Accused

Vs.

1.The State

Represented by the Inspector of Police,
Chinthamanipatty Police Station,
Karur District.

(Crime No.314 of 2021)

.. 1st Respondent/Complainant

2.M.Rasalingam

.. 2nd Respondent/Defacto

Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to C.C.No.73 of 2022 for the offence under Section 294(b), 323 and 506(ii) of IPC on the file of the learned Judicial Magistrate – I, Kulithalai, Karur District and quash the same against the petitioner as illegal.

For Petitioner : Mr.S.Vijayakumar

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



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ORDER

The present Criminal Original Petition is filed by the sole accused in C.C.No.73 of 2022 on the file of the learned Judicial Magistrate-I, Kulithalai, Karur District, seeking for quash of the criminal proceedings initiated against him.

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

The petitioner and the defacto complainant are adjacent land owners. The defacto complainant, with the help of the Village Administrative Officer, measured his land and fixed boundary stones. When the defacto complainant removed the trees using JCB to level his land, the same was questioned by the petitioner and he plucked and threw the boundary stone. A complaint has already been given by the defacto complainant in this regard. On 07.11.2021, at about 9.00 AM, when the defacto complainant and his relatives were ploughing the land using tractor, the petitioner came there, abused the defacto complainant in filthy language, attacked him with his hands and intimidated him with dire consequences. The final report was



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filed stating that the accused has committed the offences under Section 294(b), 323 and 506(2) IPC.

3. The learned counsel for the petitioner submits that the offences alleged against the petitioner are not made out as stated in the final report. He would further submit that a civil dispute has been given a criminal colour. It is only a trivial dispute and is not a fit case for trial. Hence, he prayed to quash the proceedings initiated against the petitioner.

4. The learned Additional Public Prosecutor appearing for the first respondent would submit that due to property dispute, on the date of occurrence, the accused has entered into the land and attacked the defacto complainant by hands and criminally intimidated him with dire consequences. Hence, a *prima facie* case is made out and there is no ground to quash the charge sheet and he prayed 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 : 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.” ”

7. In this case, on perusal of the statement of the material witnesses, it is seen that the petitioner herein has not only abused the defacto complainant in filthy language, but also attacked him with hands and threatened him with dire consequences by taking stone. These statements have also been supported by the other witnesses. Hence, a *prima facie* case is made out against the petitioner herein and the contention of the learned counsel for the petitioner that no offence is made out, is unacceptable. Therefore, this Court finds no merits in the quash petition and the same is liable to be dismissed.



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8. Accordingly, 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

To

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



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K.RAJASEKAR,J.

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