



Crl.O.P.(MD)No.1341 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:28.04.2025

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.1341 of 2024

and

Crl.M.P(MD) No.928 of 2024

S.Balakrishnan

.. Petitioner

Vs.

1. The Deputy Superintendent of Police
Srivilliputhur Sub Division
Virudhunagar District

2. The Inspector of Police
Srivilliputhur Town Police Station
Virudhunagar District

3. Kaliraj

.. Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for entire records pertaining to the First Information Report in Crime No.527 of 2023 on the file of the respondent police and quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.Niranjan.S.Kumar

For Respondents : Mr.M.Vaikkam Karunanithi
No.1 & 2 Government Advocate(Crl.Side)
No.3 : Mr.R.Gandhi, Senior Counsel
for M/s.Gandhi Associates



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ORDER

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This Criminal Original Petition has been filed to quash the First Information Report in Crime No.527 of 2023 on the file of the first respondent police

2. The learned counsel appearing for the petitioner would submit that the third respondent lodged a complaint against the petitioner and another and based on the same the second respondent registered a case in Crime No.527 of 2023 against the petitioner and another. The present complaint has been lodged on the basis of fabricated facts by suppressing the material facts on malafide intention. The petitioner along with his son has shop at Door No. 1B, Kottai Thalaivasal Street, Srivilliputhur, Virudhunagar District and they are running a business in the name of style of VMS Traders for the past 20 years. The present complaint has been filed at the insistence and connivance of one Govindasamy Naidu, S/o. Krishnasamy Naidu as part of an old vendetta. The First Information Report has been registered by *malafide* and ulterior motive to harm the petitioner herein bearing in mind the personal grudge between the petitioner's father and one Govindasamy Naidu who is the known to the defacto complainant. On 25.10.2023 at about 10.15 am., while the second



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accused was at his shop a car bearing Reg.No. TN 79 E 2196 rashly driven and parked in front of the petitioner's shop. Out of the parked car, a person namely Kumaravel, Inspector of Police, Coonor of Ooty District who was off duty, drove the car with deadly weapons placed near his driver's seat and he was accompanied by Shakul Hameed and Muthusamy from Watrap. Immediately upon getting down from the car, the said Kumaravel picked up the deadly weapon and rushed towards the shop with a furious demeanour and scolded the petitioner in filthy language and enquired about his father. The said Kumaravel damaged the bike belonging to the petitioner bearing Reg.No. TN 84 AP 6391 with deadly weapon. Further the said Kumaravel and his accomplices had taken the keys from the bike by placing the petitioner under fear of death. At that time the said Shakul Hameed threatened the petitioner stating that his father had obtained a loan from him and must repay it with exorbitant interest. Infact the petitioner already settled the amount borrowed by him and now the respondent demanding more money, therefore the defacto complainant had lodged complaint and the respondent police issued CSR No. 1034 of 2023 dated 25.10.2023 but no action was taken. Again on 28.11.2023 the said Kumaravel , Shakul Hameed and Muthusamy along with three other persons illegally trespassed into the petitioner's resident and threatened



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the petitioner's wife. The petitioner's wife made a complaint before the respondent police and CSR No.1124 of 2023 was issued . Again on 02.12.2023 the defacto complainant approached the respondent police with a complaint based on fabricated facts, thereby First Information Report in Crime No. 527 of 2023 was registered on 06.12.2023 and on the same day another First Information Report in Crime No. 528 of 2023 was registered by the respondent police based on the complaint dated 28.11.2023 made by the petitioner's wife wherein the defacto complainant herein is named as fifth accused. A case registered in Crime No. 527 of 2023 on the file of the respondent police is liable to be quashed as against the petitioner herein as the allegations at their face do not disclose any offences on the part of the petitioner. So far as offence under Section 294(b) of IPC is concerned no allegations in the First Information Report to constitute the offence. So far as offence under Section 506(i) of IPC is concerned there is no threat alleged to be made by the petitioner which could be construed to cause intimidation to the defacto complainant. So far as offence under Section 323 of IPC is concerned no prima facie case has been made out. So far as offence under Sections 3(1)(r), 3(1)(s) of SC/ST Act is concerned there was no public view and nobody was present at the time of alleged occurrence, thereby registration of present



First Information Report is abuse of process of law and it is liable to be quashed.

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3. The learned Government Advocate(Crl.Side) appearing for the respondents 1 and 2 would submit that based on the compliant lodged by the third respondent the first respondent registered a case in Crime No. 527 of 2023 for the offences under Sections 294(b), 323,506(i) of IPC and Sections 3(1)(r), 3(1)(s) and 3(2)(va)of SC/ST Act and now the case is under investigation and hence at this stage the petition is liable to be dismissed.

4. The learned Senior Counsel appearing for the third respondent would submit that the petitioner along with others have abused the caste name of the defacto complainant and also caused criminal intimidation and also used obscene words. Therefore the defacto complainant lodged complaint and the same is under investigation. As per the complaint there are specific allegations as against the petitioner and the averments of the First Information Report offences are made out and the matter requires elaborate investigation. A counter case is also registered and the same is also under investigation. At this stage the investigation cannot be scuttled



and thereby the matter requires elaborate investigation and hence the petition is liable to be dismissed.

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5. Heard both sides and perused the materials available on record.

6. On perusal of record it is seen that the defacto complainant had lodged a complaint against the petitioner and others and based on the same second respondent registered a case in Crime No. 527 of 2023 for the offences under Sections 294(b), 323,506(i) of IPC and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of SC/ST Act and now the case is pending and at this stage the petitioner has filed this petition to quash the pending First Information Report on the ground that no offence is made out as against the petitioner. Already the wife of the petitioner lodged a complaint against the defacto complainant and others and based on the same First Information has been registered in Crime No. 528 of 2023, therefore counter case also registered. Though the wife of the petitioner lodged a complaint earlier no First Information Report has been registered and the complaint of the defacto complainant is subsequent complaint and based on the same, the police registered the case. Both the cases are under investigation by the first respondent. According to the third respondent



there are prima facie materials available and as per the First Information Report there are specific allegations to constitute the offence therefore at this stage the case needs elaborate investigation and at this stage the investigation cannot be scuttled.

7. This Court perused the records and as per the First Information Report there are serious allegations as against the petitioner to constitute the cognizable offence and the case is now under investigation and therefore it needs elaborate investigation. The arguments advanced by the petitioner cannot be looked into at the stage of investigation and it is for the Investigation Officer to conduct fair investigation and file final report.

8. At this juncture, the learned counsel appearing for the petitioner relied on the judgment of the Hon'ble Apex Court in the case of Mohammed Wajid and another .vs. State of U.P. and others reported in 2023 SCC Online SC 951, wherein it is held as follows:

“At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such



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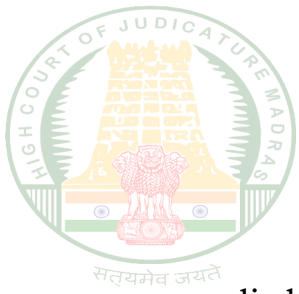
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proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/ complaint are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged”.



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9. On careful perusal of the above said judgment it is clear that the Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. In the case on hand also the First Information Report has been registered based on the complaint lodged by the defacto complainant. While so, the documents filed by the petitioner cannot be looked into and the same has to be tested during trial and at this stage this Court has to see whether there are any averments to constitute the offence or not. Therefore the above case law will not be applicable to the present facts of the case. In this case as per the First Information Report there are some allegations as against the petitioner.



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10. The learned Senior Counsel appearing for the second respondent relied on the following judgements:

a) Vinod Raghuvanshi .vs. Ajay Arora and others reported in (2013)10 SCC 581, wherein it is held as follows:

It is a settled legal proposition that while considering the case for quashing of the criminal proceedings the court should not "kill a still born child", and appropriate prosecution should not be stifled unless there are compelling circumstances to do so. An investigation should not be shut out at the threshold if the allegations have some substance. When a prosecution at the initial stage is to be quashed, the test to be applied by the court is whether the uncontroverted allegations as made, prima facie establish the offence. At this stage neither the court can embark upon an inquiry, whether the allegations in the complaint are likely to be established by evidence or nor the court should judge the probability, reliability or genuineness of the allegations made therein. More so, the charge sheet filed or charges framed at the initial stage can be altered/amended or a charge can be added at the subsequent stage, after the evidence is adduced in view of the provisions of Section 216 Criminal Procedure Code. So, the order passed even by the High Court or this Court is subject to the order which would be passed by the trial court at a later stage.

b) State .vs. M.Maridoss and another reported in (2023)4 SCC 338, wherein it is held as follows:

"Even otherwise it is a settled position of law that while exercising powers under Section 482 of Cr.P.C., the High Court is



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not required to conduct the mini trial. What is required to be considered at that stage is the nature of accusations and allegations in the FIR and whether the averments/allegations in the FIR prima facie disclose the commission of the cognizable offence or not”

c) State of Tamil Nadu .vs. Thirukkural Perumal reported in(1995) 2

SCC 449, wherein it is held as follows:(para. 4)

“ 4. M.S.K.Shanmugovol Chettiyar lodged a first information report at P.S. Tallakulam against the respondents alleging commission of offences under Section 147/148/342/323/395/500 (ii) and 109IPC. Investigation was taken in hand and some evidence was collected by the investigating agency. The respondent filed a petition under Section 482Cr.P.C. in the High Court and by the impugned order the petition was allowed and the proceedings emanating from crime case 246/92 (supra) were quashed. From a bare perusal of the order of the learned single Judge it appears that while quashing the proceedings reliance, has been placed upon some evidence collected by the investigating agency during the investigation. The approach of the learned Judge in relying upon such evidence, which is yet to be produced before the trial court, to quash the criminal proceedings in crime cases No.246/92 (supra) was not proper. The power of quashing a FIR and criminal proceedings should be exercised sparingly by the Courts.Indeed, the High Court has the extra-ordinary or inherent power to reach out injustice and quash the First Information Report and criminal proceedings, keeping in view the guidelines laid down by this Court in



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various judgments (reference in this connection may be made with advantage to *State of Haryana & Ors. v. Bhajan Lal & Ors.* (1992 Supp. (1) 335) but the same has to be done with circumspection. The normal process of the criminal trial cannot be cut short in a rather casual manner. The Court, is not justified in embarking upon an enquiry as to the reliability or genuineness of the allegations made in the FIR of the complaint on the basis of the evidence collected during investigation only while dealing with a petition under *Section 482 Cr.P.C.* seeking the quashing of the FIR and the criminal proceedings. The learned single Judge apparently fell into an error in evaluating the genuineness and, reliability of the allegations made in the FIR on the basis of the evidence collected during the investigation. The order of the learned single Judge cannot, therefore, be sustained. This appeal succeeds and is allowed. The impugned order of the High Court is hereby set aside”.

d) Central Bureau of Investigation.vs. Aryan Singh etc reported in 2023 SCC Online SC 379

“From the impugned common judgment and order passed by the High Court, it appears that the High Court has dealt with the proceedings before it, as if, the High Court was conducting a mini trial and/or the High Court was considering the applications against the judgment and order passed by the learned Trial Court on conclusion of trial. As per the cardinal principle of law, at the stage of discharge and/or quashing of the criminal proceedings, while exercising the powers under *Section 482 Cr.P.C.*, the Court is not required to conduct the mini trial.



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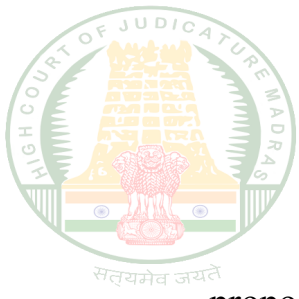


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The High Court in the common impugned judgment and order has observed that the charges against the accused are not proved. This is not the stage where the prosecution / investigating agency is/are required to prove the charges. The charges are required to be proved during the trial on the basis of the evidence led by the prosecution / investigating agency. Therefore, the High Court has materially erred in going in detail in the allegations and the material collected during the course of the investigation against the accused, at this stage. At the stage of discharge and/or while exercising the powers under [Section 482 Cr.P.C.](#), the Court has a very limited jurisdiction and is required to consider “whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not”.

e) Somjeet Mallick .vs. State of Jharkhand and others reported in (2024) 10 SCC 527, wherein it is held as follows:(para no.15)

“Before we proceed to test the correctness of the impugned order, we must bear in mind that at the stage of deciding whether a criminal proceeding or FIR, as the case may be, is to be quashed at the threshold or not, the allegations in the FIR or the police report or the complaint, including the materials collected during investigation or inquiry, as the case may be, are to be taken at their face value so as to determine whether a prima facie case for investigation or proceeding against the accused, as the case may be, is made out. The correctness of the allegations is not to be tested at this stage”.



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11. On careful perusal of the above judgments it is settled legal proposition that while considering the case for quashing of the criminal proceedings the court should not "kill a still born child", and appropriate prosecution should not be stifled unless there are compelling circumstances to do so. It is a settled position of law that while exercising powers under Section 482 of Cr.P.C., the High Court is not required to conduct the mini trial. What is required to be considered at that stage is the nature of accusations and allegations in the FIR and whether the averments/allegations in the FIR prima facie disclose the commission of the cognizable offence or not. The allegations in the FIR or the police report or the complaint, including the materials collected during investigation or inquiry, as the case may be, are to be taken at their face value so as to determine whether a prima facie case for investigation or proceeding against the accused, as the case may be, is made out. The correctness of the allegations is not to be tested at this stage

12. In the case on hand also the petitioner filed petition to quash the First Information Report and as per the First Information Report there are some serious allegations to constitute the offences. In view of the above said judgments and as discussed supra, the First Information Report cannot



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be quashed at this stage since there are serious allegations levelled to constitute the offence as against the petitioner.

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13. In view of the same, the Criminal Original Petition stands dismissed. However the second respondent is directed to conducted proper and fair investigation in this case. Consequently connected miscellaneous petition stands closed.

28.04.2025

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

1. The Deputy Superintendent of Police
Srivilliputhur Sub Division
Virudhunagar District
2. The Inspector of Police
Srivilliputhur Town Police Station
Virudhunagar District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL,J.

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