

Rathnakumar vs E.Nandakumar

Rathnakumar vs E.Nandakumar

SooperKanoon Citation : sooperkanoon.com/1791409

Court : Chennai

Decided On : Apr-30-2025

Judge : Honourable Mr Justice G.K. Ilanthiraiyan

Appeal No. : CRL OP/4579/2023

Appellant : Rathnakumar

Respondent : E.Nandakumar

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 24.04.2025 Orders Pronounced on : 30.04.2025

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN and
Crl.M.P.No.2903 and 2904 of 2023 Rathnakumar ... Petitioner Vs
E.Nandakumar ... Respondent Criminal Original Petition is filed under
Section 482 of Cr.P.C., to call for the records, quash the complaint and
all consequential proceedings in C.C.No.799 of 2022 pending on the file
of the Chief Judicial Magistrate, Chengalpattu. For Petitioner : Mr.Krishna
Srinivasan, Senior Counsel for M/s.Ramasubramanian Associates For
Respondent : Mr.G.Ravikumar

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.799 of 2022 pending on the file of the Chief Judicial Magistrate, Chengalpattu.

2. The respondent lodged a private complaint and the same has

been taken cognizance for the offence punishable under Sections 120B, 341, 342, 384, and 506(1) of IPC, alleging that the respondent was working as a Senior Executive in the Power Source Division of M/s. Tractors and Farm Equipment Limited (hereinafter referred to as 'the TAFE Limited' for short), Maraimalai Nagar, Chengalpattu, for the past 20 years in a Battery Plant. Even during the Covid-19 pandemic period, the respondent carried out all works meticulously as per the directions of accused 1 and 2 when they were staying in their respective residences. While that being so, on 25.08.2021, the accused conspired together with common intention to wrongfully confine the respondent in order to extort a resignation letter from him. They also threatened him with dire consequences in order to employ their relatives in the position of the petitioner. Prior to the said occurrence, there

were e-mail communications and phone calls to the respondent, compelling the respondent under coercion to resign his job. In pursuance of which, he was wrongfully confined by the accused by inviting the respondent to Plant No. 3's office for some discussion from Plant No. 1, where the respondent is on duty. After having taken cognizance, the Trial Court issued summons to the accused.

3. The learned Senior Counsel appearing for the petitioner would

submit that there are totally three accused, in which the petitioner is arrayed as the first accused, who is working as Associate Vice President

of TAFE Limited, Power Source Division. The respondent is the former employee of the TAFE Limited, who had resigned from service on 25.08.2021. He was employed in the designation of Senior Executive in the Power Source Division of the TAFE Limited. Out of his own volition, he had submitted his resignation on 25.08.2021 and the same was duly accepted, and he was relieved from service on the same day. In fact, after resigning from service, he was settled with full and final payment and the same was duly received by the respondent through cheque and encashed. After receipt of the entire

benefits and his resignation, the petitioner now comes forward with the complaint that he was wrongfully restrained and his resignation letter was obtained under coercion.

4. At the most, the respondent ought to have raised an industrial

dispute, if at all he has any grievance; instead, the respondent filed a private complaint, and that too when the complaint lodged by the respondent before the jurisdictional Police was enquired into and closed to prosecute the petitioner and two others for wrongful confinement and extortion. The second respondent has lodged a complaint with malicious intention to extort more money from the petitioner and two others. Therefore, the present complaint is nothing but a clear abuse of process of law. In fact, the jurisdictional Police enquired into the complaint and concluded that there was no evidence to attract any of the offences.

5. He would further submit that the learned Magistrate mechanically took cognizance without applying its mind to the facts of the case and the law applicable thereto. In support of his contentions, the

learned Senior Counsel for the petitioner relied upon the order of this Court in Crl.O.P. Nos. 8976 & 8977 of 2015, dated 19.03.2019, in which this Court held that the entire issue is between the employee and the employer, and it cannot be termed as a criminal offence. If at all there is

any grievance over the act of the accused, the complainant can very well approach the appropriate Court under the Industrial Disputes Act.

6. The learned Senior Counsel also relied upon the judgement of the Hon'ble Supreme Court of India in the case of Madhushree Datta v. State of Karnataka, reported in (2025) 3 SCC 612, which reads as follows:- "32. Be that as it may, it goes without saying that

each case must be assessed having regard to the specific facts

and circumstances, not only of the case itself, but also of the individuals involved in the alleged incident. It is undisputed that the complainant and the appellants were positioned as an employee and senior officials, respectively. Moreover, it is evident from the case presented by both parties that a dispute existed between them with regard to the employment in question.

39. Before an offence of criminal intimidation to be

made out against the first accused, it must be established that she had the intention to cause alarm to the complainant. A review of the alleged threat reveals that the complainant is primarily alleging illegal termination, which constitutes a civil dispute, rather than criminal intimidation. It is also the appellants' case, which has not been disputed by the complainant, that the complainant has filed a reference before the Labour Court challenging her termination and seeking reinstatement along with back wages. Given these circumstances and the materials on record, the ingredients of Section 506IPC, prima facie, are not disclosed against the first accused too."

7. He also relied upon the judgement of the Hon'ble Supreme

Court of India in the case of Haji Iqbal alias Bala through S.P.O.A. v. State of U.P. and others, reported in 2023 SCC OnLine SC 946, wherein it is held as follows:- "15. 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 (Cr PC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such 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 Cr PC 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."

8. Per contra, the learned counsel for the respondent filed a

counter affidavit, and on the submission made by the learned counsel for the respondent, it is revealed that the petitioner was employed by the accused as Senior Executive in the TAFE Limited, Power Source Division, Maraimalai Nagar, Chengalpattu. He was working there for the past 20 years in a Battery Plant till his alleged resignation dated 25.08.2021. While that being so, in order to appoint another person in the place of the respondent, the accused conspired with two others and called upon the respondent to come to their Plant No. 3 for discussion when the respondent was working in Plant No. 1. Therefore, at about 9:00 a.m. on 25.08.2021, the respondent went to the office of Plant No. 3, where all the accused persons were present. They dragged the respondent to a separate office room of one of the accused and he was threatened by the accused to submit his resignation

letter, and that too on the ground of personal reasons. When the respondent refused to do so, the accused threatened him with dire consequences. He was wrongfully confined from 9:00 a.m. to 3:30 p.m. on that day. Therefore, the respondent had no other option there and signed the resignation letter, which was already prepared by the accused.

9. In fact, the respondent was not shown the contents of the letter.

That apart, the accused threatened him that if the respondent failed to give a resignation letter, they would terminate him from his service on the ground of certain allegations with a defective experience certificate, and also he would be denied of all financial benefits which he was legally entitled to. Immediately after the said occurrence, the respondent brought it to the notice of all superior officers of the accused through proper communication. However, there was no response, and no action had been taken against the accused till 28.08.2021. Thereafter, on 28.08.2021, the respondent also submitted a detailed communication to

the accused, stating that they had committed criminal offences and as such, requested not to enforce the resignation letter which was obtained under coercion from the respondent.

10. On receipt of the said letter, the respondent was also

threatened by the accused through one Sathyanesan and compelled the respondent to withdraw the representation dated 28.08.2021. In pursuance of which, the respondent also, by letter dated 14.09.2021 under speed post and email dated 24.09.2021, informed the same Chairperson and Managing Director of the TAFE Limited. However, there was no action against the accused persons, and as such, the respondent had no other option but to lodge a complaint before the Superintendent of Police, Chengalpattu on 25.09.2021. Unfortunately, due to the Covid-19 pandemic period, no prompt action was taken against the accused.

11. Therefore, the respondent filed a petition before this Court in

Crl.O.P. No. 2739 of 2022, seeking to register an FIR against the accused. This Court, by order dated 04.02.2022, directed the Inspector of Police, District Crime Branch, Chengalpattu, to conduct an enquiry and complete the same within a period of four weeks. Thereafter, the enquiry was conducted, and the complaint was closed without any reasons. Therefore,

the respondent filed a private complaint under Section 200 of Cr.P.C. for the offences punishable under Sections 120B, 341, 342, 384, and 506(1) of IPC. After recording the sworn statement of the respondent and four other witnesses and also taking into consideration the documents annexed along with the complaint, the Trial Court took cognizance of the offences punishable under Sections 120B, 341, 342, 384, and 506(1) of IPC against the three accused persons.

12. On a perusal of the order of taking cognizance, it is revealed

that the Trial Court recorded that on a perusal of the statements recorded from the witnesses and the documents annexed along with the complaint, perused, and a prima facie case is made out to take cognizance. Therefore, this Court does not find any illegality in the order of cognizance taken by the Trial Court.

13. The averments in the complaint, as well as the sworn statement of the witnesses, clearly make out a case for the offences under Sections 120B, 341, 342, 384, and 506(1) of IPC against the accused

persons. Therefore, it is a clear case of wrongful confinement and obtaining a resignation letter from the respondent. Hence, the judgements relied upon by the learned Senior Counsel for the petitioner are not applicable to the case on hand.

14. In this regard, the Hon'ble Supreme Court of India in the

judgement reported in 2019 (4) SCC 351 in the case of Devendra Prasad

Singh Vs. State of Bihar & Anr., (Crl.A.No.579 of 2019 dated 02.04.2019)

while dealing with the petition to quash the entire criminal proceedings held

that the High Courts have no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and therefore, there was no prima facie case made out as against the accused. It could be done only by the trial Court while deciding the

issues on the merits or/and by the Appellate Court while deciding the appeal

arising out of the final order that the charge sheet has been laid on the basis of the inconsistency statement under Section 161 of Cr.P.C.

15. Further, the Hon'ble Supreme Court of India in the judgment

reported in 2019 (10) SCC 686 in the case of Central Bureau of Investigation Vs. Arvind Khanna, (Crl.A.No.1572 of 2019 dated 17.10.2019) held that the High Courts cannot record the findings on the disputed facts. The defence of the accused is to be tested after appreciation of evidence by the trial Court during the trial. Therefore, this Court has no power to consider the disputed facts under Section 482 of Cr.P.C.

16. The Hon'ble Supreme Court of India in another judgment

dated 02.12.2019 passed in Crl.A.No.1817 of 2019 in the case of M.Jayanthi Vs. K.R.Meenakshi & anr, held that while considering the petition for quashment of complaint or charge sheet, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. Further, the Court can also see whether the preconditions requisite for taking cognizance have been complied with or not and whether the allegations contained in the complaint, even if accepted in entirety,

would not constitute the offence alleged. Whether the accused will be able to prove the allegations in a manner known to law would arise only at a later stage i.e., during trial.

17. Further, this Court cannot observe at this stage that the

initiation of criminal proceeding itself is malicious. Whether the criminal proceeding is malicious or not, is not required to be considered at this stage. The same is required to be considered at the conclusion of the trial. Therefore, the ground raised by the petitioner to quash the final report/charge sheet cannot be entertained to quash the entire proceedings.

18. The above judgements are squarely applicable to the case on

hand. Since the grounds raised by the petitioner can be agitated before the Trial Court during the trial. Further, the encashment of the cheque, which was issued by the TAFE Limited, does not amount to obstructing the criminal proceedings. In fact, according to the respondent, there are huge amounts due from the TAFE Limited. Accordingly, this Court finds no grounds to quash the complaint lodged by the respondent, and this Criminal Original Petition is liable to be dismissed.

19. In view of the above discussion, this Criminal Original

Petition is dismissed. The Trial Court is directed to proceed with the trial and complete the same within a period of three months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petitions are closed. 30.04.2025 Index:Yes/No Neutral Citation/Yes/No kv To

1. The Chief Judicial Magistrate, Chengalpattu.

2. The Public Prosecutor, High Court of Madras.

G.K.ILANTHIRAIYAN, J.

kv Pre-Delivery Judgement in 30.04.2025

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com