



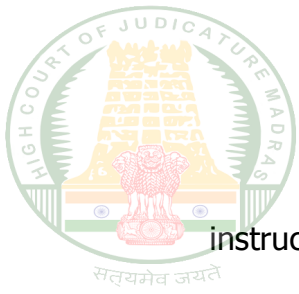
Crl.OP.No.754 of 2024
and Crl.MP.No.499 of 2024

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N. ANAND VENKATESH, J.

Mr.A.Damodaran, learned Additional Public Prosecutor takes notice on behalf of the 1st respondent. Notice to the 2nd respondent returnable by four weeks. Private notice is also permitted.

2.The 3rd respondent who claims to be the President of the Association of University Teachers, legal adviser and social activist has given a complaint before the 2nd respondent. The allegations made in the complaint is that the petitioner, who is the Vice Chancellor of Periyar University and the Registrar (incharge) of the University along with three others joined together and registered a Company named Periyar University Technology Entrepreneurship and Research Foundation [for brevity "PUTER FOUNDATION"] . Each of the accused person is shown as a Director. That apart, the official address of this Company is shown as PUTER PARK, Periyar University, Salem. It is further alleged that this Company was formed without getting the permission/sanction of the University and/or the Government. A separate portion was also allotted on the back side of the building belonging to the University measuring an extent of 2024 sq.ft. According to the 3rd respondent, this Company was formed only with an intention to misappropriate money in the name of this Company and on the



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instructions of the petitioner, the Registrar is acting in a dual capacity as Registrar (incharge) of the University and also as the Director of PUTER FOUNDATION. This Company is now being run within the University without the permission of the University and the Government. That apart, steps were taken to let out this place to private entity and to misappropriate money. When this was questioned by the 2nd respondent, he was abused in filthy language using his caste name and he was also criminally intimidated. Based on this complaint, an FIR came to be registered in Crime No.1003 of 2023, dated 26.12.2023.

3.The relevant documents placed before this Court shows that the Government had issued G.O.Ms.No.6, dated 19.1.2013. By virtue of this Government Order, it was decided to set up incubation and technology transfer centres in 9 Universities under the control of Higher Education Department. The Government accorded financial sanction to 9 Universities. One such University was Periyar University, Salem. It was made clear in the Government Order that the recurring expenses shall be met by the University concerned out of its own sources.

4.Pursuant to the above Government Order, steps were taken to establish the incubation and technology transfer centre and a Committee was formed with the Registrar of the University as the coordinator. A meeting was held on

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1.11.2021, which was attended by the coordinator and three members and it was resolved to regularize the documentation, scrutinize the Clauses of the Memorandum of Understanding, finalise the MOU by obtaining legal opinion etc.

5.Pursuant to the meeting, steps were taken to register PUTER PARK as a Society or under Section 8 of the Companies Act. Accordingly, a meeting was held on 7.6.2023 and the petitioner was the chairperson for the meeting. Nearly eight minutes were discussed and approved in this meeting. Thereafter, steps were taken to enter into MOU with four other entities in order to make the PUTER PARK operational. Subsequently, in a meeting held on 6.10.2023, it was resolved to consider and ratify the change of name of PUTER PARK as PUTER FOUNDATION. This was done to comply with the provisions of Section 8 of the Companies Act. The place where the centre was sought to be implemented was also identified. The Agenda of the meeting was also handed over to the concerned authority in a sealed cover seeking for the approval.

6.It is at this point of time, the 3rd respondent, who was the President of the Association of University teachers, seems to have given a complaint to the Police and had also forwarded a letter to the concerned Ministry. In the meantime, the Company has been registered under Section 8 of the Companies Act.

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7.The FIR has been registered for offence under Sections 120(b), 420, 468, 409 and Section 511 IPC. The allegations made in the FIR and the materials that have been placed before this Court by the investigation agency, does not make out any offence. The allegations made are to the effect that attempt is being made to use the Company for misappropriation of money. However, there is absolutely no material to show that money was in fact transferred or misappropriated by the accused persons. Even the statement recorded by the Police from the entities with whom the MOU has been entered into, shows that there was absolutely no money transferred by anyone.

8.The floating of the non-profit company under Sec 8 is not shrouded in secrecy and on the other hand it has been made public and is very much available in the website of the Periyar university. This attendant fact becomes significant since if really the accused persons planned to unlawfully gain through this entity, the normal course of conduct would be to keep it behind the screen.

9.The allegation regarding abuse in the name of caste, comes out of blue with out any context. This attendant fact assumes significance since an attempt has been made to add spice to the complaint to make it sound more serious.



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10. Insofar as the offence under Section 294(b) and 506(1) IPC, the allegations made in the FIR do not constitute any offence. In fact, after the complaint was given by the 3rd respondent, the petitioner and the Registrar were giving explanation to the Police and to the Government as to the steps taken to register the Company in line with the objectives/aim under G.O.Ms.No.6, dated 19.1.2013. Even insofar as the registration of the FIR for offence under Section 3(1)(r) and Section 3(1)(s) of the SC/ST Act, the alleged abuse had taken place within a private space and it did not happen in a public place in the presence of others. Hence, no offence has been made out even under the SC/ST Act. Even if the allegations are taken to its extremes, at the best, it may lead to dereliction of duty on the part of the accused persons in not getting the permission/sanction of the University and the Government before entering into MOUs with four other entities.

11. In the instant case, considering the materials placed before this Court, this Court finds that the criminal prosecution has been instituted with an ulterior motive. It is the duty of this Court to look into the attending circumstances, emerging from the record of the case over and above the averments made in the FIR. The Apex Court in **Mahmood Ali and Others Vs. The State of Uttarpradesh** reported in **(2023) SCC on-line SC 950** has held that the Court while exercising its jurisdiction under Section 482 of Cr.PC is empowered to take into account the



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over all circumstances leading to the registration of the case as well as the materials collected in the course of investigation. The parameters brought out in this judgment, will squarely apply to the facts of the present case.

12. In view of the above, there shall be a stay of investigation in Crime No.1003 of 2023, pending disposal of this Criminal Original Petition.

13. Post this case after four weeks.

19.01.2024

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