

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.1207 of 2016
and Crl.M.P.Nos.534 & 828 of 2016

1. Manikandan
 2. Saroja
 3. Sathiya
 4. Devi
 5. Gejalakshmi
 6. Hemalatha
 7. Maharani
 8. Saigeetha
 9. Jayasri
 10. Nandhini Bharathi
 11. Rajkumar
- ... Petitioners/Accused 7 to 10

Vs.

1. Sujatha
 2. Minor Gopika
 3. Minor Loga Rajan
- ... Respondents/Complainant
(Minor respondents 2 and 3 are represented
by guardian mother 1st respondent)

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in M.C.No.12 of 2015 on the file of the Additional Mahila Court, Cuddalore (Magisterial Level) and quash the proceedings.

For Petitioners : Mr.Gururaj

O R D E R

This Criminal Original Petition has been filed to challenge the maintenance case filed by the respondent in M.C.No.12 of 2015 on the file of the Additional Mahila Court, Cuddalore (Magisterial Level).

2. In this regard, it is relevant to the relied upon the judgment of the Hon'ble Supreme Court of India in the case of Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors. in Crl.A.No.255 of 2019 dated 12.02.2019, the Hon'ble Supreme Court of India has held as follows:

"4. The only point that arises for our consideration in this case is whether the High Court was right in setting aside the order by which process was issued. It is settled law that the Magistrate, at the stage of taking cognizance and summoning, is required to apply his judicial mind only with a view to taking cognizance of the offence, or in other words, to find out whether a prima facie case has been made out for summoning the accused persons. The learned Magistrate is not required to evaluate the merits of the material or evidence in support of the complaint, because the Magistrate must not undertake the exercise to find out whether the materials would lead to a conviction or not.

5. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same. It is not necessary that a meticulous analysis of the case should be done before the Trial to find out whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in the light of the statement made on oath that the ingredients of the offence are disclosed, there would be no justification for the High Court to interfere.

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9. Having heard the learned Senior Counsel and examined the material on record, we are of the considered view that the High Court ought not

to have set aside the order passed by the Trial Court issuing summons to the Respondents. A perusal of the complaint discloses that prima facie, offences that are alleged against the Respondents. The correctness or otherwise of the said allegations has to be decided only in the Trial. At the initial stage of issuance of process it is not open to the Courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Criminal complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are prima facie made out in the complaint, the criminal proceeding shall not be interdicted."

3. It is seen that, there are so many allegations averted in the complaint. In view of the above discussion, this Court is not inclined to quash in M.C.No.12 of 2015. However, considering the fact that the case is of the year 2015, the trial Court is directed to complete the trial in M.C.No.12 of 2015 within a period of twelve weeks from the date of receipt of a copy of this order.

4. With the above directions, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ssr
To

1. The Additional Mahila Court,
Cuddalore.

2. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.R.Gururaj, Advocate, Sr.No. 30028

CrI.O.P.No.1207 of 2016
and CrI.M.P.Nos.534 & 828 of 2016

VGII(CO)
CSL/07.05.2019