

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.13909 of 2015

and

CrI.M.P.No.1 of 2015

1. M.Velu

2. V.Chitra Petitioners/Accused

Vs.

1. State by Station House Officer,
CBCID,
Puducherry.

2. Murugan Respondents/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to Crime No.04 of 2015 on the file of 1st respondent and quash the same.

For Petitioner : Mr.A.Gokula Krishnan

For R1 : Mr.V.Balamurugane
Public Prosecutor (Puducherry)

For R2 : Mr.P.Veeraraghavan

ORDER

This Criminal Original petition has been filed to call for the records relating to Crime No.04 of 2015 on the file of 1st respondent and quash the same.

2. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent person and they did not commit any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.04 of 2015 for the offences under Sections 420, 468, 471 & 197 of IPC r/w 34 of IPC, as against the petitioners. Hence they prayed to quash the same.

3. The learned Public Prosecutor (Puducherry) would submit that the investigation is almost completed and the

respondent police have only to file final report.

4. Heard Mr.Mr.A.Gokula Krishnan, learned counsel appearing for the petitioner and Mr.V.Balamurugane, learned Public Prosecutor (Puducherry) appearing for the first respondent and Mr.P.Veeraraghavan learned counsel appearing for the 2nd respondent.

5. It is seen from the First Information Report that there is a specific allegation as against the petitioners, which has to be investigated. Further the FIR is not an encyclopedia and it need not contain all facts. Further, it cannot be quashed in the threshold. This Court finds that the FIR discloses prima facie commission of cognizable offence and as such this Court cannot interfere with the investigation. The investigating machinery has to step in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

6. Further, 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."

7. In view of the above discussion, this Court is not inclined to quash the FIR.

8. The Tahsildar, Villianur by communication dated 15.09.2014 stated that:

"Therefore the act of the counter petitioner by not responding to the field official and abstaining from the enquiry adds strength to the contention of your claim. If he had attended the enquiry, he could have been advised to cancel the settlement deed executed in favour of her daughter and settle the matter amicably. In absence of the same, you are hereby advised to file a complaint with the CBCID police, Puducherry against your counter petitioner for deliberately executing a document for the property already sold by him and to approach the Civil Court for declaring the settlement deed created by your counter petitioner as null and void."

9. In view of the same, the first respondent is directed to enquire the complaint and complete the enquiry within a period of four weeks from the date of receipt of copy of this Order.

10. With the above directions, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(AD IV)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Station House Officer,
CBCID,
Puducherry.

2. The Public Prosecutor,
Puducherry.

+1cc to M/s.A.Gokulakrishnan, Advocate, S.R.No.39475

+1cc to the Public Prosecutor for Puducherry, S.R.No.40191

Crl.O.P.No.13909 of 2015
and
Crl.M.P.No.1 of 2015

SAI (CO)

RRS (28/05/2019)

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