

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.OP.No.11100 of 2018

and

CRL.M.P.No.5712 of 2018

1.Valmuni

2.Lakshmi Petitioners/A2 and A3

Vs.

1.State Rep. by Inspector of Police,
All Woman Police Station,
M.K.B.Nagar, Chennai.
Cr.No.12 of 2016

2.S.Devi ...Respondents/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in pursuant to C.C.No.15 of 2018 on the file of the Metropolitan Magistrate, Additional Mahila Court, Allikulam, Chennai and quash the same.

For Petitioners: Mr.S.Sivakumar

For Respondent : Mr.M.Mohamed Riyaz for R1
Additional Public Prosecutor

Mr.S.Sathish Kumar for R2

O R D E R

The Criminal Original Petition has been filed to quash the C.C.No.15 of 2018, on the file of the learned Metropolitan Magistrate, Additional Mahila Court, Allikulam, Chennai.

2.Heard, Mr.S.Sivakumar, learned counsel appearing for the petitioners, Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the respondent 1 and Mr.S.Sathish Kumar, learned counsel appearing for the respondent 2 and perused the materials available on record.

3.It is seen from the records that there are specific allegations as against the petitioners.

4.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 relevant paragraphs is extracted hereunder:

"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.

.....

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."

5. In view of the judgment cited supra, this Court is not inclined to quash the proceedings in C.C.No.15 of 2018, on the file of the Metropolitan Magistrate, Additional Mahila Court, Allikulam, Chennai. However, the trial Court is directed to complete the trial within a period of six months from the date of receipt of a copy of this order.

*5.a. However, considering the age of the petitioners, the personal appearance of the petitioners is dispensed with and they shall be represented by a counsel after filing appropriate application. The petitioners shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C and at the time of passing Judgment;

6. It is made clear that the trial Court shall proceed without furtherance to any observation made by this Court.

7. With the above observation and direction, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

Dated: 18/06/2019

*5(a) Paragraph added as per the order dated 14/8/2019 made in Crl.O.P.No.11100 of 2018
Sd/-

Assistant Registrar
Dated: 16/08/2019

//True Copy//

Sub Assistant Registrar

pam

To

1.The Metropolitan Magistrate,
Additional Mahila Court,
Allikulam, Chennai.

To be substituted for the
order already despatched
On 23/07/2019

2.The Inspector of Police,
All Woman Police Station,
M.K.B.Nagar, Chennai.
Cr.No.12 of 2016

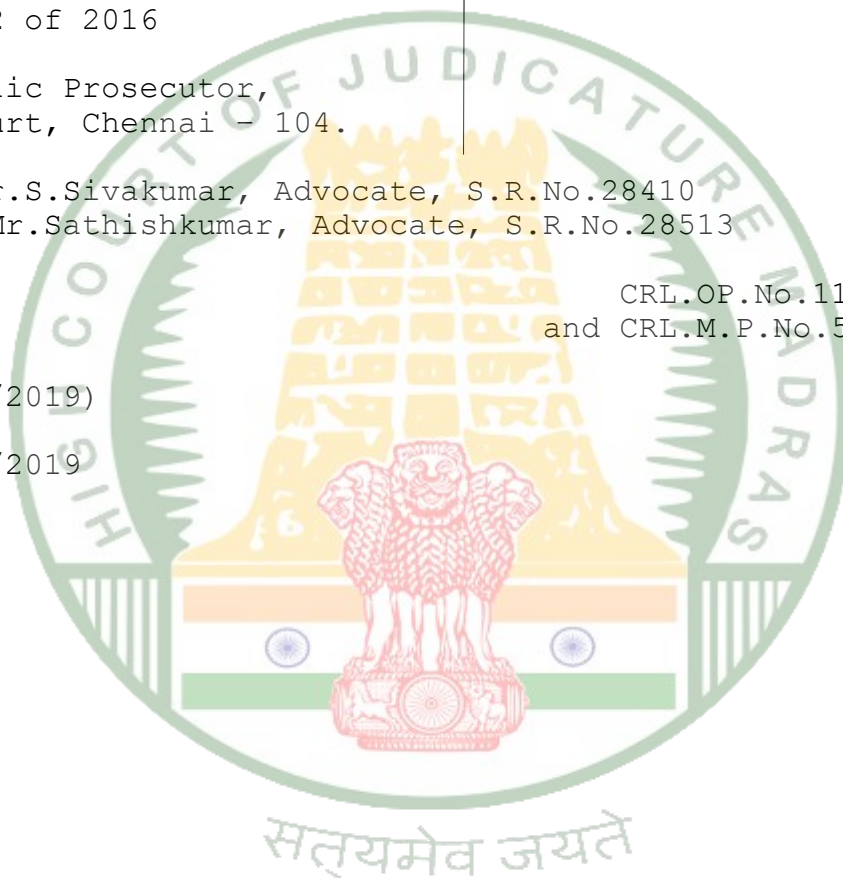
3.The Public Prosecutor,
High Court, Chennai - 104.

+1cc to Mr.S.Sivakumar, Advocate, S.R.No.28410
+2ccs to Mr.Sathishkumar, Advocate, S.R.No.28513

CRL.OP.No.11100 of 2018
and CRL.M.P.No.5712 of 2018

KS (CO)
RRS (20/06/2019)

srg 20/08/2019



WEB COPY