

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.9950 of 2019

Elansurian

... Petitioner

Vs.

1.State represented by
The Inspector of Police (Crime)
M-1, Madhavaram Police Station
Chennai 600 060

2.Vijayarajarajan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records and quash the FIR dated 13.11.2018 in Crime No.654 of 2018 on the file of M-1, Madhavaram Police Station, Chennai.

For Petitioner : Mr.Elansurian P
Party-in-person

For Respondents : Mr.M.Mohamed Riyaz
Addl. Public Prosecutor for R1

ORDER

This Criminal Original Petition has been filed by the petitioners under Section 482 Cr.P.C. to call for the records and quash the FIR dated 13.11.2018 in Crime No.654 of 2018 on the file of M-1, Madhavaram Police Station, Chennai.

2.The learned counsel for the petitioner would submit that the Agreement dated 22.01.2018 had been entered into between the defacto complainant and the petitioner herein to make a tele serial for SUN TV. The defacto complainant alleged that the work order issued in the petitioner's name and address by the Sun TV is forged one. It was mutually agreed Rs.10 Lakhs towards story rights for which I have received Rs.1 Lakh only as advance. Rs.5 Lakhs had been paid as advance amount against Rs.15 lakhs remuneration fixed for me as the Executive Producer.

Another Rs.1 Lakh was paid to find out the location places for shooting purpose and to go around out stations for finalising the artistes and technicians and Rs.1 Lakh was received as remuneration advance for direction. The defacto complainant was unable to maintain sufficient funds even after a lapse of 8 months to produce a tele serial and asked the petitioner to return back the advance amount of Rs.8 lakhs only after the cancellation letter dated 16.08.2018 received from the SUN TV. Hence, the present false complaint registered against the petitioner and prays for appropriate relief.

3.Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor.

4.Further it is seen from the First Information Report that there are specific allegations as against the petitioner and the defacto complainant to attract charges as alleged by the prosecution, 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.

5.It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in Crl.A.No.255 of 2019 dated 12.02.2019 in the case of Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors., 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.

.....

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."

6. In view of the above discussions and as held by the Hon'ble Supreme Court of India, this Criminal Original Petition stands dismissed.

7. However, considering the fact that FIR has been registered in the year 2018, the 1st respondent is directed to complete the investigation in Crime No.654 of 2018 and file a final report within a period of three months from the date of receipt of copy of this Order, before the jurisdictional Magistrate, if not already filed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

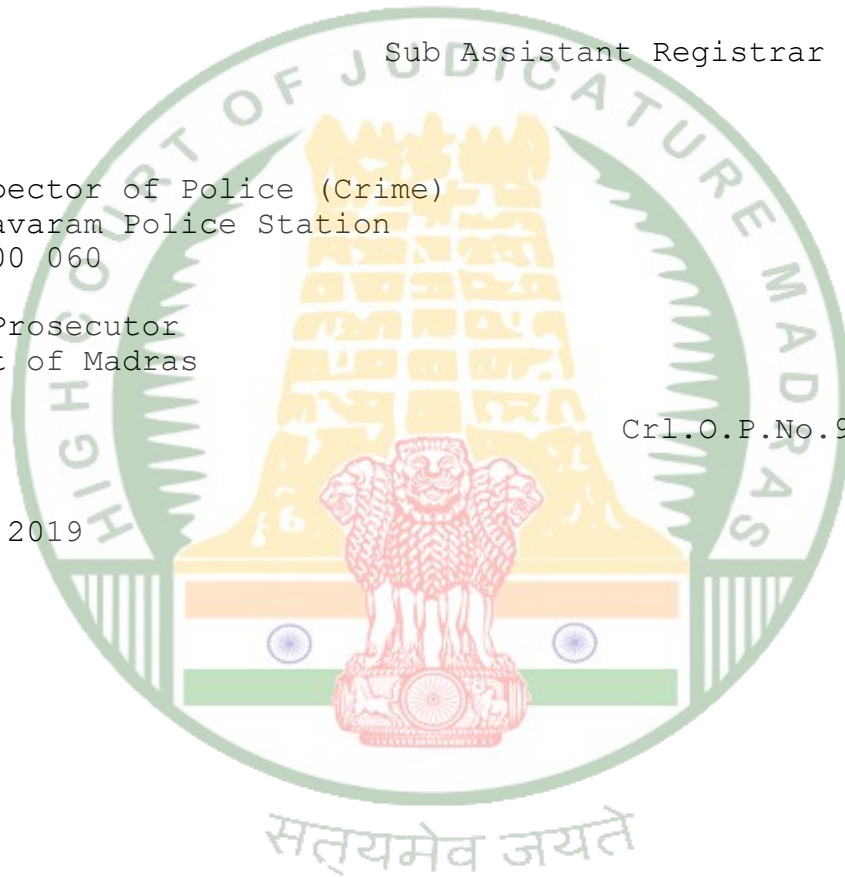
To.

1.The Inspector of Police (Crime)
M-1, Madhavaram Police Station
Chennai 600 060

2.Public Prosecutor
High Court of Madras

Crl.O.P.No.9950 of 2019

SSI(CO)
CSL/13.05.2019



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