

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2019

CORAM:

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

CRL.O.P.No. 6875 2019 and
CRL.M.P.Nos.3783 and 3784 of 2019

Prema

... Petitioner

Vs.

1.The State

Rep. by its Sub-Inspector of Police,
Investigation Officer,
Central Crime Branch,
Vepery, Chennai
(Crime No.38 of 2011)

2.Mrs. Latha W/o. Loganathan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to the C.C.No.168 of 2017 pending on the file of the Judicial Magistrate-I, Poonamallee, and quash the same.

For Petitioner : Mr. Deivasigamani.S

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.168 of 2017 on the file of the Judicial Magistrate-1, Poonamallee, in Crime No.38 of 2011 on the file of the respondent police having been taken cognizance for the offences punishable under Sections 406, 420 r/w 34 of IPC.

2. The learned Counsel appearing for the petitioner would submit that the petitioner is innocent person and she has not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.38 of 2011 for the offences under Sections, 406, 420 r/w 34 of IPC, as against the petitioner and filed charge sheet in C.C.No.168 of 2017 before the Judicial Magistrate-1, Poonamallee. Hence he prayed to quash the same.

3. The learned Additional Public Prosecutor would submit that there are specific allegations as against the petitioner to attract the offence under Section 406, 420 r/w 34 of IPC. all the points raised by the petitioner have to be considered only during the trial. Therefore, he prayed to dismiss this petition.

4. Heard Mr.S.Deivasigamani, learned counsel appearing for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the first respondent.

5. It is seen from the charge there are specific avernments to attract the offences as against the petitioner. Further it is also seen that there are materials to connect the petitioner to the offences. More over all the points raised by the petitioner have to be considered only during the trial. The petitioner at liberty to raise all the points before the Court below during the trial.

6. In this context, the observation of the Supreme Court in Cr1.A.No.255 of 2019 dated 12.02.2019 (Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors.) stated in para 4,5, and 9 may be made 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."

7. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.333 of 2013 on the file of the Judicial Magistrate-1, Poonamallee in Crime No.38 of 2011 on the file of the first respondent police. However, considering the petitioner being lady and her age as well as the case is of the year 2017, the trial Court is directed to complete the trial proceedings within a period of three months from the date of receipt of copy of this Order.

8. In view of the above, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

lbm

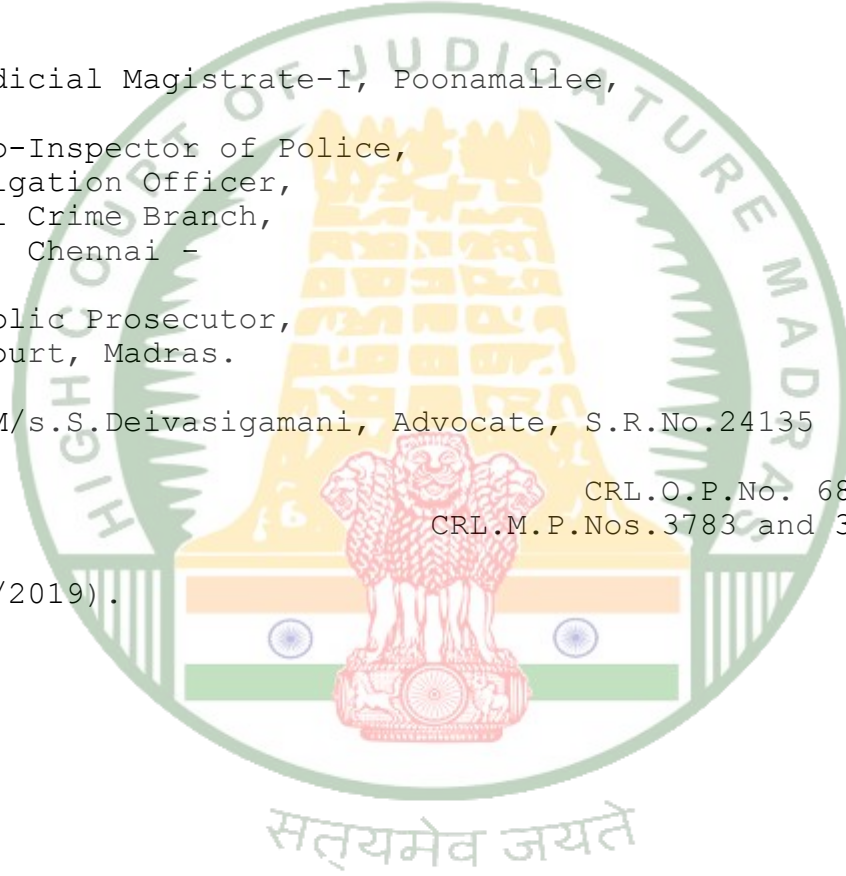
To

1. The Judicial Magistrate-I, Poonamallee,
2. The Sub-Inspector of Police,
Investigation Officer,
Central Crime Branch,
Vepery, Chennai -
3. The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.S.Deivasigamani, Advocate, S.R.No.24135

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PPA(CO)
SSM(30/04/2019).



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