

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:25.04.2019
CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.11166 of 2019

1.Mansoor Ali
2.Amith
3.E.Dhinakaran
4.G.Rajini

... Petitioners

Vs.

1. State by
The Inspector of Police,
B-3, Kanchi Taluk Police Station,
Kancheepuram, Taluk & District,
(Crime No.299 of 2018)

2. Abdul Basheed

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records and quash FIR in Crime No.299 of 2018 dated on 29.04.2018, on the file of respondent/complainant.

For Petitioner : Mr.R.Thanjan

For Respondents

For R1 : Mr.Mohammed Riyaz
Additional Public Prosecutor

O R D E R

This petition has been filed to quash the first information report in Crime No.299 of 2018 on the file of the first respondent.

2. The petitioners were arrayed as accused in Crime No.299 of 2018 for the offences punishable under Sections 147, 148 and 302 IPC based on the complaint given by the second respondent herein.

3.The case of the prosecution is that on the basis of information received, the defacto complainant went to the place of occurrence and seen that a dead body was lying in the ground near LIC Office in the Railway Road at Kancheepuram. On enquiry,

the defacto complainant/Village Administrative Officer gathered information that the deceased person belongs to North side. On the said day, he was attacked by the villagers of Chinnayan Chathiram suspecting him to be a child lifter. Thereafter, he was taken away to the hospital for treatment, but he came out from there without informing any body. Thereafter, he died. Hence, the 2nd respondent lodged a complaint before the 1st respondent and a case was registered as against the petitioner in Crime No.299 of 2018.

4. The learned counsel for the petitioner submitted that the respondent police without proper investigation registered an F.I.R as against the petitioners, in Crime No.299 of 2018. He further submitted that there are sufficient materials to show that the petitioners did not commit any offence as alleged by the prosecution. Hence, he prays to quash the F.I.R.

5.The learned Additional Public Prosecutor submitted that investigation has been completed and the 1st respondent is yet to file a final report. He further submitted that the whereabouts of the deceased are yet to found.

6.It is relevant to extract the following observations made by the Hon'ble Supreme Court in the case of Sau. Kamal Shivaji Pokarnekhar vs. the State of Maharashtra & ors., in CrI.A.No.255 of 2019 dated 12.02.2019, with regard to quashing of the criminal proceedings.

"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. On perusal of the complaint, it is seen that there are specific allegations as against the petitioner to attract the offences under Sections 147, 148 and 302 IPC. Hence, this Court does not find any merits to quash the investigation in Crime No.299 of 2018. Accordingly, this Criminal Original Petition is dismissed. However, considering the submission made by the learned Government Advocate (Crl.side), the 1st respondent is directed to file a final report before the concerned Judicial Magistrate, within a period of three months from the date of receipt of copy of this order.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
B-3, Kanchi Taluk Police Station,
Kancheepuram, Taluk & District,
(Crime No.299 of 2018)

2. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.R.Thanjan, Advocate, Sr.No. 40285

CSL/26.06.2019

CRL.O.P.No.11166 of 2019



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