

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2019

CORAM:

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

CRL.O.P.No.8133 of 2019

1.Swaminathan
2.Balasundari
3.Senthilnathan

... Petitioners/
Accused 1 to 3

Vs.

1. Inspector of Police,
All Women Police Station,
FIR No.5 of 2018,
Ambattur, Chennai.

2. Jeyanthi

... Respondents/
Complainant/Defacto Complainant

PRAYER:

Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records and to quash the FIR in Cr. No.5 of 2018 on the file of the Inspector of Police, All Women Police Station, Ambattur.

For Petitioners : Mr.E.J.Ayyappan

For Respondent 1 : Mr.C.Raghavan,
Government Advocate (Crl. Side)

ORDER

This petition has been filed to quash the FIR registered in Cr. No.5 of 2018 on the file of the first respondent police for the offences under Sections 498(A) and 406 of IPC.

2. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. He also submitted that the second respondent lodged so many complaint, in which, the impugned FIR has been registered in Cr. No.5 of 2018 for the offences under Sections 498(A) and 406 of IPC, as against the petitioners. Further submitted that D.V.No.17 of

2017 was initiated by the second respondent and the same was also quashed as against the second and third petitioners by the order of this Court dated 10.08.2018 in Crl.O.P.No.11493 of 2018 and the said D.V.No.17 of 2017 is pending as against the first petitioner herein. Hence he prayed to quash the same.

3. The learned Government Advocate (Crl. Side) would submit that there are so many complaint as against the petitioners herein and the same have been enquired by the police and closed.

4. Heard, the learned counsel appearing for the petitioners as well as learned Government Advocate (Crl. Side) appearing for the first respondent.

5. It is seen from the First Information Report that there is a specific allegation as against these 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. In this regard, the Hon'ble Supreme Court has passed a Judgement dated 12.02.2019 in the case of Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors. in Crl.A.No.255 of 2019 and the relevant paragraphs are 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."

7. In the above referred Judgment, the Hon'ble Supreme Court held that FIR cannot be quashed on its initial stage. It has to be investigated in depth. Therefore, this Court is not inclined to quash the FIR.

8. In view of the above, the Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

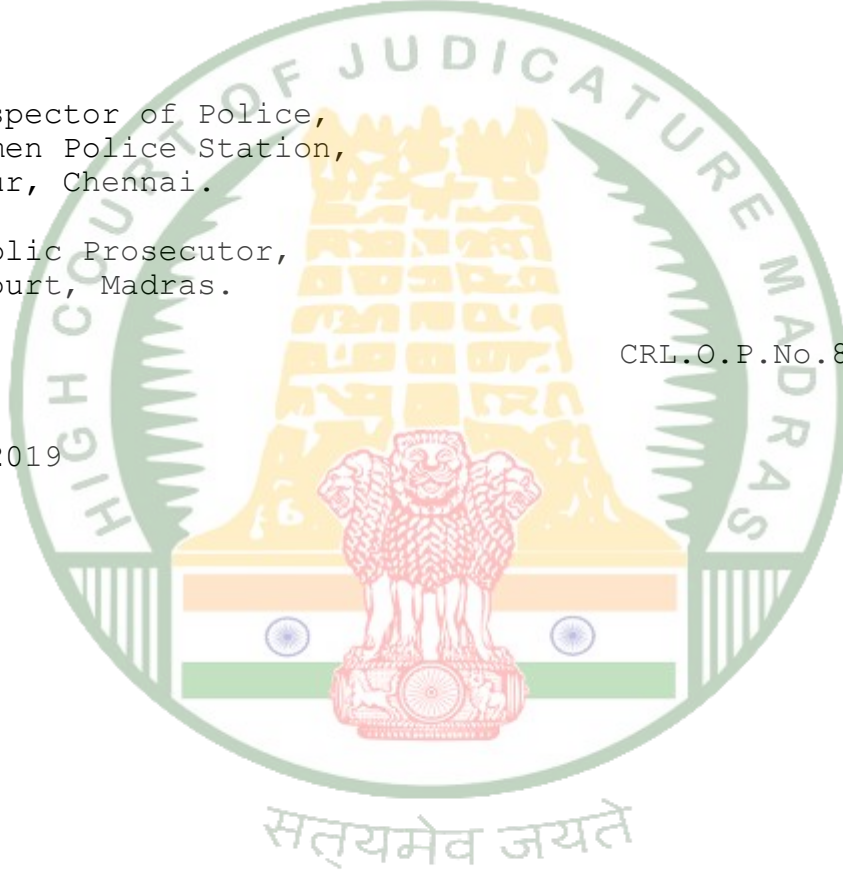
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To

1. The Inspector of Police,
All Women Police Station,
Ambattur, Chennai.
2. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.8133 of 2019

AK(CO)
CS/23/05/2019



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