

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 25.03.2019
CORAM:
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN
Crl.O.P.No.7884 of 2019
and Crl.M.P.No.4285 of 2019

Thiyagaraj

... Petitioner

Vs

State rep. by
The Inspector of Police,
Kilapuk PS,
Chennai-600 007.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pertaining to the case pending investigation in Crime No.230 of 2018 on the file of the respondent police and quash the same.

For Petitioner : Mr.Rajagopal Vasudevan
For Respondents: Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking to quash the investigation in Crime No.230 of 2018 on the file of the respondent police.

2.Heard Mr.Rajagopal Vasudevan, learned counsel for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor for the respondent.

3.The case of the prosecution is that the petitioner is working as a Manager in Robusta Hyglow cafe on a temporary basis. The said restaurant is purely a vegetarian restaurant and also serving Hookah in a separate designated smoking zone of the same restaurant after obtaining due licence. While so, on 13.05.2018, an F.I.R was registered as against the petitioner, being the Manager of the restaurant stating that the said Hyglow Cafe is serving Hookah to students. Hence, a case was registered in Crime No.230 of 2018 under Section 294(b), 353, 506(1) of IPC and Section 24(1) of Cigarette and other Tobacco Products Act and 4 of Tamil Nadu Prohibition of smoking and spitting Act 2003 and the petitioner was arrested on 13.05.2018 and subsequently released on bail. Meanwhile, the owner of the Robusta Restaurant filed W.P.No.16881 of 2011 seeking to forbear the police from in anyway interfering with the business. The said writ petition was

dismissed by this Court on 11.08.2011. The said order was challenged in SLP(C) No.8143 of 2014 before the Hon'ble Supreme Court, which was allowed and the Hon'ble Supreme Court set aside the order of this Court vide order dated 08.12.2014. This being the position, the grievance of the petitioner is that the respondent police are continuously harassing the petitioner and also that due to pendency of this case in Crime No.230 of 2018, the petitioner could not able to go abroad for employment opportunities. Therefore, the petitioner prays to quash the F.I.R.

4.It is seen from the First Information Report that there is a specific allegation as against the petitioner, which has to be investigated. Further the FIR is not an encyclopaedia 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 agency has to step in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

5.In view of the above discussion, this Court is not inclined to quash the FIR. However, the first respondent is directed to complete the investigation and file a final report within a period of three months from the date of receipt of a copy of this Order.

6.This Criminal Original Petition is disposed of accordingly. Consequently, the connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rm

To

1.The Inspector of Police,
Kilapuk PS,
Chennai-600 007.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.Rajagopal Vasudevan, Advocate sr.no.28635

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nr 08/05/2019



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