

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.8156 of 2019
and
Crl.M.P.Nos.4399 & 4400 of 2019

Vimal Raj

... Petitioner

Vs.

1.The State Rep. by the Inspector of Police,
K-4, Anna Nagar Police Station,
Chennai - 600 040.

2.Kavitha

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pending on the file of the learned Vth Metropolitan Magistrate, Egmore, Chennai in C.C.No.2724 of 2015 and quash the Criminal proceeding.

For Petitioner : Mr.E.Kannadasan
for M.Machavatharan

For Respondent 1: Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This petition has been filed to quash the proceedings in C.C.No.2724 of 2015 on the file of the learned Vth Metropolitan Magistrate, Egmore, Chennai, having been taken cognizance for the offences punishable under Sections 448, 294(b) 506(i) r/w. 34 I.P.C.

2. The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.551 of 2015 for the offences under Sections 448, 294(b) 506 (i) r/w. 34 I.P.C., as against the petitioner and filed charge sheet in C.C.No.2724 of 2015 before the Vth Metropolitan Magistrate, Egmore, Chennai. 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 Sections 448, 294(b) 506(i) r/w. 34 I.P.C. He further submitted that all the points raised by the petitioner have to be considered only during the trial. Therefore, he prayed to dismiss this petition.

4. Heard, learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor appearing for the first respondent.

5. The crux of the charge is that on 10.07.2015 at about 12.15 p.m., the petitioner and A2 were trespassed into the office of the defacto complainant and scolded her with filthy language and threatened her to shut down her real estate business. Therefore, there are specific averments 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 petitioners have to be considered only during the trial. The petitioners at liberty to raise all the points before the Court below during the trial.

6. In this regard, it is also relevant to rely upon the Judgment of Hon'ble Supreme Court in the case of Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors. in CrI.A.No.255 of 2019 dated 12.02.2019 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 view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.2724 of 2015. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

8. However, considering the case is of the year 2015, 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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Vth Metropolitan Magistrate, Egmore, Chennai
- 2.The Inspector of Police,
K-4, Anna Nagar Police Station,
Chennai - 600 040.
- 3.The Public Prosecutor,
High Court, Madras.

Copy to

The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to MR.E.Kannadasan, Advocate Sr.30555

CRL.O.P.No.8156 of 2019

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srg 11/06/2019