

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.9870 of 2019 and
Cr1.M.P.No.5143 of 2019

1.Rajendran
2.Thirunavukkarasi
3.Madhanraj
4.Sylviya Petitioners/Accused

Vs.

1.State rep. by
Inspector of Police
Mangalapuram Police Station
Namakkal District

2.Saravanan Respondents/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records and to quash the FIR No.115 of 2018 on the file of the Inspector of Police, Mangalapuram Police Station. Namakkal District.

For Petitioners : Mr.Balasubramanian P.R.

For RR1 : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

This petition has been filed to quash the FIR in Crime No.115 of 2018 on the file of the first respondent.

2.The learned counsel for the petitioner would submit that the complaint lodged by the 2nd respondent and consequential First Information Report in Crime number 115 of 2018 registered by the 1st respondent for the alleged offence under sections 465, 468, 471, 420, 120(b), 294(b) and 506(2) IPC is a clear abuse of process of law, engineered at with an intention to harass the petitioners inasmuch as there is no material available to connect the petitioners with the said offences. The defacto complainant has tried to manipulate the

fcts and has created events that has not happened only to harass the petitioners and to grab their land. Further all the documents executed by the petitioners were in the legal capacity and right. There were no criminal act or criminal intention on the part of the petitioners. Hence this petition.

3.Mr.M.Mohamed Riyaz, Additional Public Prosecutor would submit that the crime has been registered in Crime No.115 of 2018 for the offences under Sections 465, 468, 471, 420, 120 (b), 294(b) and 506(2) IPC. The petitioner's father and other petitioners threatened to attack the defacto complainant with iron pipe and used foul language on them.

4.Heard, Mr.Balasubramanian P.R., the learned counsel for the petitioner and Mr.M.Mohamed Riyaz, Additional Public Prosecutor appearing for the first respondent Police.

5.On perusal of records, it shows that the petitioners are the accused in Crime No.115 of 2018. The second respondent lodged a complaint on the allegation that the petitioners when the defacto complainant and his brother visited the petitioner and his family members without any prima facie evidence they have threatened and attacked him with iron pipe and used foul language on them. Accordingly, the petitioners have committed serious offence. Therefore, this Court is not inclined to entertain this petition.

6.Further it is seen from the First Information Report that there is a specific allegation as against the 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.

7.Further, 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, the Hon'ble Supreme Court of India has held as follows:

"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."

8.In view of the above discussions and as held by the
Hon'ble Supreme Court of India, this Criminal Original Petition
is dismissed.

9.However, considering the above facts, the 1st
respondent is hereby directed to complete the investigation in
Crime No.115 of 2018 and file a final report within a period of
three months from the date of receipt of copy of this Order,
before the jurisdictional Magistrate, if not already filed.
Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

kas

To

1.Inspector of Police
Mangalapuram Police Station
Namakkal District

2.Public Prosecutor
High Court of Madras

+1cc to Mr.P.R.Balasubramanian, Advocate SR.No.35671

सत्यमेव जयते

Cr1.O.P.No.9870 of 2019
and
Cr1.M.P.No.5143 of 2019

NRKJ(CO)
GMY (24/05/2019)

WEB COPY