

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2019

CORAM:

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

Crl.O.P.No.8883 of 2019

and

Crl.M.P.No.4755 of 2019

K.Balamurugan @ BalaPetitioner/Accused -4

Vs.

1.The State of Tamilnadu
Rep. by the Inspector of Police,
M-7, Manali New Town Police Station,
Manali New Town,
Chennai-600 103.

2.L.ThirunavookkarasuRespondents

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records relating to first information report in Crime No.31 of 2019 on the file of the first respondent and quash the same.

For Petitioner : Mr.T.P.Sekar

For R1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

सत्यमेव जयते

O R D E R

This petition has been filed to quash the first information report in Crime No.31 of 2019 on the file of the first respondent.

2. The petitioner was arrayed as A4 in Crime No.31 of 2019 for the offences punishable under Sections 147, 148, 294 (b), 506(ii) IPC r/w Section 3 of TNPPDL Act of the basis of complaint given by the 2nd respondent herein.

3.On perusal of records, it is seen that on 27.01.2019 around 7 p.m., near Sornavelavar Petrol Bunk, a lorry belongs

to one Manikandan was stopped due to repair and the same was pulled by using another lorry, at which time one Chitti Babu caught between two lorries and crashed to death. As a result the public gathered at the scene of occurrence and damaged the vehicles parked nearby. According to the prosecution, the petitioner is one among the accused who have damaged the vehicles. Hence, the respondent police registered a case as against the petitioner in Crime No.31 of 2019. Under such circumstances, the petitioner herein has filed the present petition to quash the F.I.R. In Crime No.31 of 2019.

4. The learned counsel for the petitioner submitted that the respondent police without proper investigation registered an F.I.R as against the petitioner in Crime No.31 of 2019. He further submitted that there are sufficient materials to show that the petitioner did not commit any offence as alleged by the prosecution. Hence, he prays to quash the F.I.R.

5. It is relevant to extract the following observations made by the Hon'ble Supreme Court in the case of *Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors.*, in Crl.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."

6. 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, 294(b), 506(ii) IPC r/w Section 3 of TNPPDL Act. Hence, this Court does not find any merits to quash the investigation in Crime No.31 of 2019. Accordingly, this Criminal Original Petition is dismissed. However, considering the nature of allegation, the 1st respondent is directed to conduct an enquiry and file a final report within a period of three months from the date of receipt of copy of this order. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
M-7, Manali New Town Police Station,
Manali New Town,
Chennai-600 103.

2. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.T.P.Sekar, Advocate, S.R.No.32172

CrI.O.P.No.8883 of 2019
and
CrI.M.P.No.4755 of 2019

SJ(CO)

RRS (28/05/2019)



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