

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2019

CORAM:

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

CrI.O.P.No.9451 of 2019

and

CrI.M.P.Nos.4968 and 4970 of 2019

1.A.Anbarasan
2.S.Mahendran
3.E.Rajinikanth

...Petitioners

Vs.

1.The State rep. by
The Sub-Inspector of Police,
E-8, Kelambakkam Police Station,
Kancheepuram District.
(Crime No.252 of 2018)

2.K.Marimuthu

...Respondents

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records to quash the charge sheet laid in C.C.No.01 of 2019 by the learned Judicial Magistrate-I, Chengalpattu.

For Petitioners : Mr.G.Prabhakaran

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

सत्यमेव जयते
O R D E R

This petition has been filed to quash the charge sheet laid in C.C.No.01 of 2019, before the learned Judicial Magistrate-I, Chengalpattu.

2. The petitioners were arrayed as A1 to A3 in Crime No.252 of 2018 for the offences punishable under Sections 341, 294(b), 323, 324, 506(ii) and Section 120(B) of IPC of the basis of complaint given by the 2nd respondent herein.

3.On perusal of records, it is seen that there was a dispute between one M/s.Pacifica Aurum Villas, who were involved

in construction of Villa type residential buildings and with one M/s.Srinivasa Associates Pvt. Ltd., who were civil contractors to construct the villas in which the petitioners 1 and 2 joined together and prevented one Marimuthu, who is a site incharge in entering into the project site and also threatened him with dire consequences. Thereafter on 21.06.2018, all the petitioners joined together and prevented the said Marimuthu from entering into the project site and attacked him with iron pipes, in which he sustained grievous injuries. Hence, a complaint was lodged as against the petitioners before the respondent Police for the offences under Sections 341, 294(b), 323, 324, 506(ii) and Section 120(B) of IPC. Under such circumstances, the petitioners herein have filed the present petition to quash the charge sheet filed in C.C.No.01 of 2019.

4. The learned counsel for the petitioners submitted that the respondent police without proper investigation has filed the charge sheet as against the petitioners in C.C.No.01 of 2019. He further submitted that there are sufficient materials to show that the petitioners did not commit any offence as alleged by the prosecution. Hence, he prays to quash the entire proceedings in C.C.No.01 of 2019.

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.

.....

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 petitioners to attract the offences under Sections Sections 341, 294(b), 323, 324, 506(ii) and Section 120(B) of IPC. Hence, this Court does not find any merits to quash the charge sheet in C.C.No.01 of 2019. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.I,
Chengalpattu.

2.The Sub-Inspector of Police,
E-8, Kelambakkam Police Station,
Kancheepuram District.
(Crime No.252 of 2018)

3. The Public Prosecutor,
High Court, Madras.

+lcc to Mr. G.Prabakaran, Advocate, S.R.No. 35126

Crl.O.P.No.9451 of 2019
and Crl.M.P.Nos.4968 and 4970 of 2019

SS(CO)
GN(23/05/2019)



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