

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.9334 of 2019  
and  
Crl.M.P.Nos.4930, 4931 of 2019

Tamilselvan

... Petitioner

Vs

1.The State Represented by  
The Inspector of Police,  
Nallipalayam Police Station,  
Namakkal District.  
(Crime No.357 of 2017) ... 1<sup>st</sup> Respondent/Complainant

2.M.Prabhakaran .... 2<sup>nd</sup> Respondent/Defacto Complaint

Prayer: Criminal Original Petition filed under Section 482  
Cr.P.C. to call for the records and quash the charge sheet in  
C.C.No.440 of 2018 on the file of Judicial Magistrate Court  
No.I, Namakkal.

For Petitioner : Mr.P.N.Vignesh

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

O R D E R

This Criminal Original Petition has been filed to call  
for the records and quash the charge sheet in C.C.No.440 of 2018  
on the file of Judicial Magistrate Court No.I, Namakkal.

2.Heard the learned counsel for the petitioner and the  
learned Additional Public Prosecutor for the first respondent.

3.The petitioners are arrayed as sole accused in C.C.No.440  
of 2018 for the offences punishable under Sections 294(b), 420  
and 506(i) of IPC by the first respondent police.

4.The learned counsel for the petitioner submitted that the  
respondent police without proper investigation filed a charge

sheet as against this petitioner in C.C.No.440 of 2018, on the file of the first respondent police. 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 proceedings in C.C.No.440 of 2018.

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 CrI.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. In the case on hand, the points raised by the petitioners are question of facts, which are to be raised only before the trial Court during the trial. Therefore, this Court does not find any merits to quash the proceedings in C.C.No.440 of 2018.

7. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

rna

To

1. The Judicial Magistrate Court No.I,  
Namakkal.

2. The Inspector of Police,  
Nallipalayam Police Station,  
Namakkal District.

3. The Public Prosecutor,  
High Court, Madras.

Crl.O.P.No.9334 of 2019  
and Crl.M.P.Nos.4930, 4931 of 2019

SJ(CO)  
GN(22/05/2019)