

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.10211 of 2019
and
Cr1.M.P.No.5272 of 2019

Senthil

... Petitioner/Accused
Vs.

1.State rep. by
The Station House Officer
Railway Police Station
Villupuram
(Crime No.174/2017)

..1st Respondent/Complainant

2.Gowdhaman

..2nd Responden/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records and to quash the F.I.R. in Crime No.174 of 2017 pending on the file of Railway Police Station, Villupuram.

For Petitioner : Mr.Krishnasamy Chinnasamy

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

ORDER

This petition has been filed to call for the records and to quash the F.I.R. in Crime No.174 of 2017 pending on the file of Railway Police Station, Villupuram.

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 174 of 2017 registered by the 1st respondent for the alleged offence under sections 465 and 420 IPC is an abuse of process of law, engineered at with an intention to harass the petitioner inasmuch as there is no material available to connect the petitioner with the said offences. The defacto complainant / 2nd respondent collected the copy of Emergency Quota forms from EQ Section which has been issued in the name of P.Nasirudeen vide PNR Number 443-8264467

train Number 12631 and 2nd SL dated 17.11.2017 with the seal and signature of Member of Parliament. The defacto complainant team has boarded at Tambaram on the above said train and interrogated one P.Nasirudeen who is the passenger. He has given the confessional statement that the petitioner used to fill the travel details in the copy of the EQ form and fax the same. Therefore, the petitioner's name has been included in the F.I.R. Hence this petition.

3.Mr.M.Mohamed Riyaz, Additional Public Prosecutor would submit that the F.I.R. has been registered in Crime No.174 of 2017 for the offences under Sections 465 and 420 IPC.

4.Heard, Mr.Krishnasamy Chinnasamy, the learned counsel for the petitioner and Mr.M.Mohamed Riyaz, Additional Public Prosecutor appearing for the 1st respondent Police.

5.On a perusal of records, it shows that the petitioner is the accused in Crime No.174 of 2017. The 2nd respondent lodged a complaint on the allegation that the petitioner that when the 2nd respondent / defacto complainant team has boarded at Tambaram on the above said train and interrogated one P.Nasirudeen who is the passenger. He has given the confessional statement that the petitioner used to fill the travel details in the copy of the EQ form and fax the same. Therefore, the petitioner's name has been included in the F.I.R. Hence this petition. 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 petitioner, 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 Crl.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.

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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."

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

9. However, considering the fact that FIR has been
registered in the year 2017, the 1st respondent is directed to
complete the investigation in Crime No.174 of 2017 and file a
final report within a period of four weeks from the date of
receipt of copy of this Order, before the jurisdictional
Magistrate, if not already filed. Consequently, connected
miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Station House Officer
Railway Police Station
Villupuram
(Crime No.174/2017)

2. Public Prosecutor
High Court of Madras

+2 Ccs to Mr. Krishnasamy Chinnasamy, Advocate sr 37559.

सत्यमेव जयते

Cr1.O.P.No.10211 of 2019
and

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SV(CO)
SP(31/05/2019)

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