

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.10639 of 2019 and
CrI.M.P.No.5483 of 2019

Suganthi

... Petitioner

Vs.

1.State Rep. by its
The Inspector of Police
Central Crime Branch
Vepery, Chennai

2.Jeyaraman

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records on the file of the 1st respondent in FIR No.32 of 2019 dated 26.01.2019 and quash the same against the petitioner herein.

For Petitioner : Mr.P.Saranath

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

Mr.N.A.Ravindran for R2

ORDER

This Criminal Original Petition has been filed by the petitioner under Section 482 Cr.P.C. to call for the records on the file of the 1st respondent in FIR No.32 of 2019 dated 26.01.2019 and quash the same against the petitioner herein.

2.The learned counsel for the petitioner would submit that the petitioner is the wife of Mr.Kevin, Director of Stalwart Group of Companies arrayed as Accused No.2 in this FIR and she is no way connected with the transaction of the company. The 2nd respondent has unnecessarily dragged her name into this controversy and implicated her in this FIR in order to harass the petitioner and exhort money. My husband has already filed a complaint registered as FIR No.236/18 against Mr.Kumar / A1 for misappropriate the funds to the tune of Rs.45 lakhs and he has already obtained a permanent injunction in O.S.No.2322/2017 in the Court of XIII Asst. Judge, Chennai restraining the defendant

(A4), from disturbing the petitioner's husband with regard to clearing of the dues pertaining to the creditors of the defendant. Hence, this petition.

3. Heard the learned counsel on either side.

4. 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.

5. It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in Crl.A.No.255 of 2019 dated 12.02.2019 in the case of *Sau. Kamal Shivaji Pokarnekhar vs. the State of Maharashtra & ors.*, 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."

6. In view of the above discussion, this Court is not inclined to quash the FIR. However, the 1st respondent is hereby directed to complete the investigation in Crime No.32 of 2019 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.

7. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To.

1.The Inspector of Police
Central Crime Branch
Vepery, Chennai

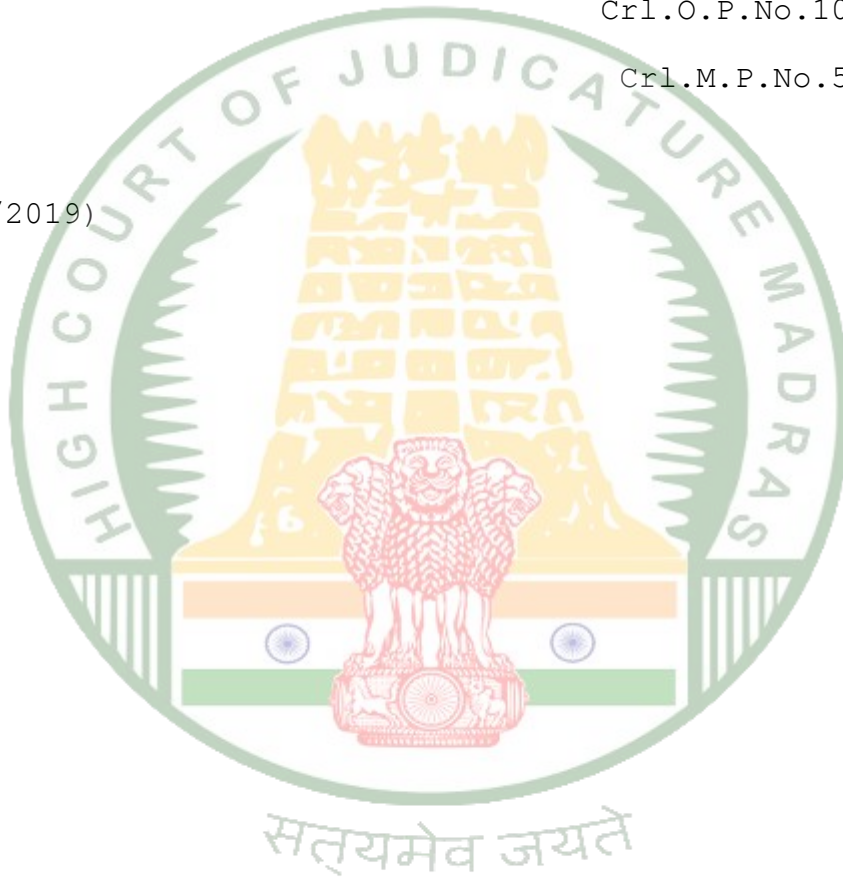
2.Public Prosecutor
High Court of Madras

+lcc to Mr.N.A.Ravindran, Advocate, S.R.No.40113

Crl.O.P.No.10639 of 2019
and
Crl.M.P.No.5483 of 2019

VSN II (CO)

RRS (27/05/2019)



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