

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.10294 of 2019
and CrI.M.P.No.5332 of 2019

R.D.Shankar @ Nana

... Petitioner

Vs

1. State rep by
The Inspector of Police,
P1 - Pulianthope Police Station,
Chennai 600 012.
(Crime No.1729 of 2017)

2. K.Perumal

... Respondents

Prayer:

Criminal Original Petition filed under Section 482 Cr.P.C.,
to call for the records pertaining to the proceedings in Crime
No.1729 of 2017 dated 26.09.2017, on the file of the 1st
respondent police and quash the same.

For Petitioner : Mr.K.Raghunath

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

सत्यमेव जयते
O R D E R

This Criminal Original Petition has been filed to call
for the records pertaining to the proceedings in Crime No.1729
of 2017 dated 26.09.2017, on the file of the 1st respondent
police and quash the same.

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

3.The petitioner is arrayed as sole accused in Crime No.1729
of 2017 for the offences punishable under Sections 341, 294(b),
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 these petitioner in Crime No.1729 of 2017 dated 26.09.2017, on the file of the first respondent police. 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 proceedings in Crime No.1729 of 2017.

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. In the case on hand, the points raised by the petitioner is question of facts, which are to be raised only before the first respondent police. Therefore, this Court does not find any merits to quash the proceedings in Crime No.1729 of 2017. However, the first respondent is directed to complete the enquiry and investigation and file a final report within a period four weeks from the date of receipt of copy of this order.

7. Accordingly, this Criminal Original Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Deputy Registrar (CJ Conf.)

//True Copy//

Sub Assistant Registrar

rna

To

1. The Inspector of Police,
P1 - Pulianthope Police Station, Chennai 600 012.
 2. The Public Prosecutor, High Court, Madras.
- +1cc to Mr.K.Raghunath, Advocate, S.R.No.37394

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SKV(CO)
CS/21/05/2019