

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:23.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.10679 of 2019
and
Crl.M.P.No.5489 of 2019

GogulDevan ...Petitioner/Accused 3
Vs.

1.State Represented by,
The Inspector of Police
J-1, Saidapet Police Station
Saidapet, Chennai 600 016.
(Cr.No.127 of 2019)

2.P.Tamilarasan
Conductor (C57768)
MTC (Metropolitan Transport Corporation)
Chromepet Depo,
Chennai 600 044. ...Respondents/complainant

PRAYER:Criminal Original Petition is filed under
Section 482 of Cr.P.C., to call for the records and quash
the FIR dated 22.03.2019 in Crime No.127 of 2019 pending
on the file of the respondent Police as against the
petitioner.

For Petitioner : Mr.B.Mohanraj
For Respondents : Mr.Mohamed Riyaz
Addl. Public Prosecutor for R1

ORDER

This Criminal Original Petition has been filed by
the petitioner under Section 482 Cr.P.C. to call for the
records and quash the FIR dated 22.03.2019 in Crime
No.127 of 2019 pending on the file of the respondent
Police as against the petitioner.

2.The case of the prosecution is that the defacto
complainant is the Bus Conductor, who gave a complaint
before the respondent police on 22.03.2019 stating that
he is the conductor of the Bus Route No.60D from Pammal

to Broadway. While he was on duty and running the bus from Pammal, two college students were travelling on the bus on the foot board and when he warned them and produced them to the Meenambakkam Police and while he was returning from Broadway the said two students Saravanan and Krishnan along with other two students have waylaid the bus at the YMCA junction and assaulted him and threatened him. Based on the complaint given by the defacto complainant, the respondent police have registered an F.I.R. in Crime No.127 of 2019 for the offences u/s.341, 294(b), 323, 506(i) and 353 IPC.

3.The learned counsel for the petitioner would submit that the petitioner's name is not found in the complaint and he is not a named accused in the F.I.R. Even the defacto complainant stated only the other two students have waylaid the bus and attacked the complainant. The petitioner is residing in Vettuvankanni in ECR and his bus route is different. Only based on the confession statement of the main accused, the petitioner was included as an accused. Accordingly, prays for appropriate relief.

4.Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor.

5.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.

6.It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in CrI.A.No.255 of 2019 dated 12.02.2019 in the case of Sau. Kamal Shivaji Pokarnekar 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."

7. 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.127 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 concerned jurisdictional Magistrate, if not already filed.

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

Sd/-

Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

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1. The Inspector of Police
J-1, Saidapet Police Station
Saidapet, Chennai 600 016.
(Cr.No.127 of 2019)

2. The Public Prosecutor
High Court of Madras

Cr1.O.P.No.10679 of 2019
and
Cr1.M.P.No.5489 of 2019

NA (CO)

MP (24/05/2019)