

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:25.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.11102 of 2019
and Crl.MP.No.5635 of 2019

Bernard George ... Petitioner/Sole Accused

Vs.

1. The State by
Inspector of Police,
Peellamedu Police Station,
Coimbatore City,
Coimbatore.

2. Muthukumar ... Respondents

PRAYER:

Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records of FIR in Crime No.410 of 2019 dated on 18.03.2019 on the file of 1st respondent herein and quash the same.

For Petitioner : Mr.P.Kumaresan
for Mr.N.Ponraj

For Respondents : Mr.Mohammed Riyaz
Additional Public Prosecutor.

ORDER

This petition has been filed to quash the first information report in Crime No.410 of 2019, on the file of the first respondent.

2. The petitioner was arrayed as an accused in Crime No.410 of 2019 for the offences punishable under Sections 294(b) and 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002, based on the complaint given by the second respondent herein.

3.The case of the prosecution is that the 2nd respondent/defacto complainant is working under the petitioner

in an IT Company in the name and style of Next Techno Enterprises, Coimbatore. While the 2nd respondent got a better job in some company, he decided to quit the petitioner's company and sent his resignation through email. On receipt of the resignation, it is alleged that petitioner behaved rudely with the defacto complainant and also not provided him with relieving letter, experience certificate and also his provident fund. It is alleged that the petitioner has behaved similarly with the few other employees also. Hence, the 2nd respondent lodged a complaint before the 1st respondent and a case was registered as against the petitioner in Crime No.410 of 2019.

4. The learned counsel for the petitioner submitted that the respondent police without proper investigation registered an F.I.R as against the petitioner in Crime No.410 of 2019. 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 F.I.R.

5.The learned Additional Public Prosecutor submitted that investigation has been completed and the 1st respondent is yet to file a final report.

6.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."

7. On perusal of the complaint, it is seen that there are specific allegations as against the petitioner to attract the offences under Sections 294(b) and 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002. Hence, this Court does not find any merits to quash the investigation in Crime No.410 of 2019. Accordingly, this Criminal Original Petition is dismissed. However, considering the submission made by the learned Government Advocate (Crl.side), the 1st respondent is directed to file a final report before the concerned Judicial Magistrate, within a period of three months from the date of receipt of copy of this order. Connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

rm

To

1. The Inspector of Police,
Peellamedu Police Station,
Coimbatore City,
Coimbatore.
2. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.N.Ponraj, Advocate, S.R.No.40977

CRL.O.P.No.11102 of 2019
and CrI.MP.No.5635 of 2019

CS/14/06/2019



WEB COPY