

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.11969 of 2019

and

Crl.M.P.No.6210 of 2019

Rafeeka Parveen

... Petitioner/Accused

Vs.

State rep. by
The Inspector of Police,
Race Course Police Station,
Coimbatore.
(Cr.No.181 of 2019)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to the case in Cr.No.181 of 2019 on the file of the respondent herein and to quash the same as illegal and without jurisdiction.

For Petitioner : Mr.I.Abdul Basith

For Respondent : Mr.M.Mohamed Riyaz
Addl. Public Prosecutor

ORDER

The Criminal Original Petition filed by the petitioner under Section 482 Cr.P.C. to call for the records relating to the case in Cr.No.181 of 2019 on the file of the respondent herein and to quash the same as illegal and without jurisdiction.

2.The learned counsel for the petitioner would submit that the respondent herein initiated suo motu criminal prosecution against this petitioner on the allegation that this petitioner along with 51 women were illegally assembled and protested in the public road without prior permission against the State Government and Police Department demanding the arrest of the real culprit in the incident of Pollachi sex abuse scandal. The petitioner is a law abiding citizen and has been maliciously roped into the above baseless prosecution by the respondent by misapplying and misreading the provision of law. The FIR registered by the respondent neither has any criminal force nor reveals any specific role of this petitioner. Hence, prays for quashing the FIR registered by the respondent.

3.Mr.M.Mohamed Riyaz, Additional Public Prosecutor would submit that the F.I.R. has been registered in Crime No.181 of 2019 for the offences under Section 143 and 341 of IPC by the respondent and the same is pending for filing of charge sheet.

4.Heard, Mr.I.Abdul Basith, the learned counsel for the petitioner and Mr.M.Mohamed Riyaz, Additional Public Prosecutor appearing for the respondent.

5.On a perusal of records, it shows that the petitioner is the accused in Crime No.181 of 2019. The respondent suo motu lodged a complaint on the allegation that the petitioner along with 51 women illegally assembled and protested in the public road without any prior permission against the State Government and Police Department demanding the arrest of the real culprit in the incident of Pollachi sex abuse scandal. 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.

.....
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, the respondent is hereby directed to complete the investigation in Crime No.181 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. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(AD IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
Race Course Police Station,
Coimbatore.

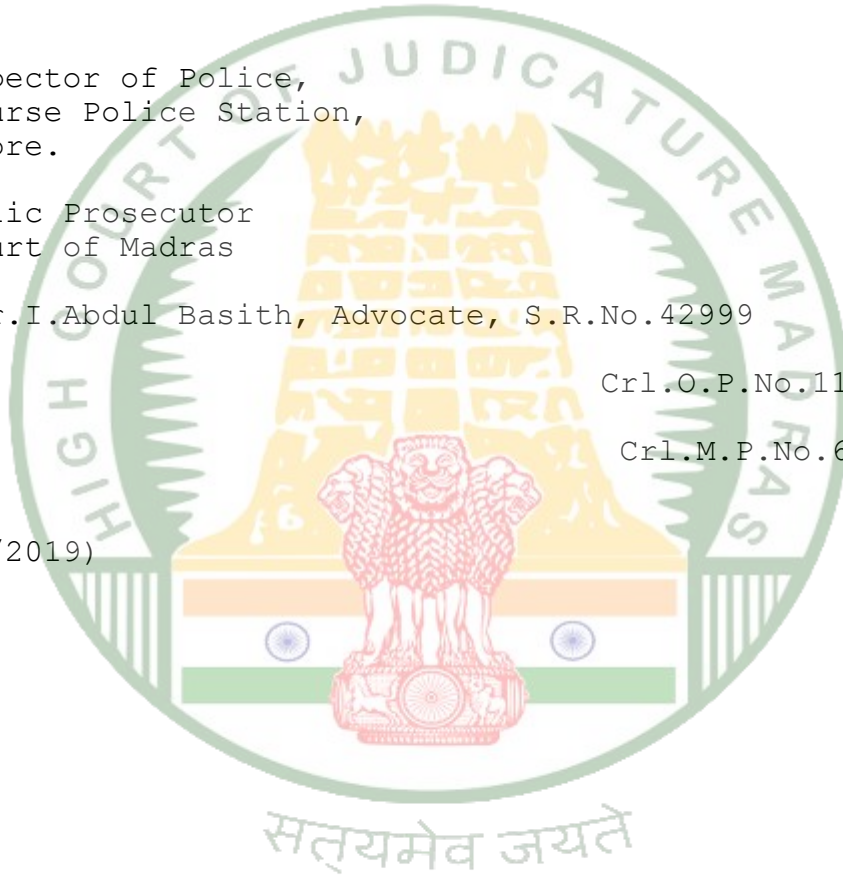
2.The Public Prosecutor
High Court of Madras

+lcc to Mr.I.Abdul Basith, Advocate, S.R.No.42999

Crl.O.P.No.11969 of 2019
and
Crl.M.P.No.6210 of 2019

JP (CO)

RRS (29/05/2019)



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