

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.11825 of 2019
and
Crl.M.P.No.6102 of 2019

T.Palani

... Petitioner

Vs.

State by

1.The Inspector of Police
Civil Supplies CID, Tiruvallur
Tiruvallur District
(Cr.No.133 of 2018)

2.Bharathi

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the entire records concerned in Cr.No.133 of 2018 on the file of Inspector of Police, Civil Supplies CID, Tiruvallur, Tiruvallur District pending disposal of the above quash petition.

For Petitioner : Mr.C.Prakasam

For RR1 : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

The Criminal Original Petition filed by the petitioner under Section 482 Cr.P.C. to call for the entire records concerned in Cr.No.133 of 2018 on the file of Inspector of Police, Civil Supplies CID, Tiruvallur, Tiruvallur District pending disposal of the above quash petition.

2.The learned counsel for the petitioner would submit that the petitioner was working as Warden at Thiruthani Government College Backward Class students Hostel till 06.04.2018 and subsequently he was relieved from the post and transferred to the R.K.Pet Government Most Backward Students Hostel and joined duty on 07.04.2018, but the Revenue Divisional Officer inspected the Thiruthani Government Arts College Backward Class Students Hostel on 27.06.2018 had seized 7.303 Kilo of rice from the said

hostel and the petitioner is no way connected with the said occurrence. The 2nd respondent on misconstrued implicated the petitioner in the said case in spite of his transfer and handed over the entire stocks to the new Warden. Hence, this petition.

3.Mr.M.Mohamed Riyaz, Additional Public Prosecutor would submit that the crime has been registered in Crime No.133 of 2018 for the offences under Sections 6(4)of TNSC (RDCS) Order, 1982 r/w 7(1)(a) of E.C.Act.

4.Heard, Mr.C.Prakasam, the learned counsel for the petitioner and Mr.M.Mohamed Riyaz, Additional Public Prosecutor appearing for the first respondent Police.

5.On perusal of records, it shows that the petitioner is the accused in Crime No.133 of 2018. The second respondent lodged a complaint against the petitioner that during the inspection of the Revenue Divisional Officer at Thiruthani Government College Backward Class Students Hostel on 27.06.2018, they have seized 7303 kilo rice from the said hostel. Accordingly, the petitioner has committed serious offence. 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, considering the fact that FIR has been registered in the year 2018, the 1st respondent is hereby directed to complete the investigation in Crime No.133 of 2018 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(V/O)

//True Copy//

Sub Assistant Registrar

To

1.The Inspector of Police,
Civil Supplies CID, Tiruvallur
Tiruvallur District.
(Cr.No.133 of 2018)

2.The Public Prosecutor,
High Court of Madras.

+1cc to M/S.C.Prakasam, Advocate Sr.42992

CrI.O.P.No.11825 of 2019
and
CrI.M.P.No.6102 of 2019

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srg 29/05/2019

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