

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.16876 of 2017
and M.P.Nos.10370 & 10371 of 2017

1.Munian
2.Thirumurugan
3.Jayaraman
4.Ayyanar
5.Periyan

... Petitioners

Vs.

1. State by the Sub-Inspector of Police,
Manalurpet Police Station,
Manalurpet, Villupuram District.
Crime No.5 of 2015.

2. R.Pushpalatha

... Respondents

PRAYER:

Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in C.C.No.172 of 2017 on the file of the Judicial Magistrate, Thirukovilur and quash the same.

For Petitioners : Mr.R.Arun Dattan

For Respondents

For R1 : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor.

For R2 : Mr.R.Diwakaran

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.172 of 2017 on the file of the Judicial Magistrate Court, Thirukovilur, having been taken cognizance for the offences punishable under Sections 147, 294(b), 323, 354, 506(i) and 379 (NP) of IPC.

2. The learned Counsel appearing for the petitioner would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.5 of 2015 for the offences under Sections 147, 294(b), 323, 354, 506(i) and 379 (NP) of IPC, as against the petitioners and filed charge sheet in C.C.No.172 of 2017 before the learned Judicial Magistrate, Thirukovilur. Hence he prayed to quash the same.

3. The learned Additional Public Prosecutor would submit that there are specific allegations as against the petitioners to attract the offence under Section 147, 294(b), 323, 354, 506 (i) and 379 (NP) of IPC. He further submitted all the points raised by the petitioners have to be considered only during the trial. Therefore, he prayed to dismiss this petition.

4. Heard Mr.R.Arun Dattan, learned counsel appearing for the petitioners and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the first respondent and Mr.R.Diwakaran, learned counsel appearing for the 2nd respondent.

5. It is seen from the charge there are specific averments to attract the offences as against the petitioners. Further it is also seen that there are materials to connect the petitioners to the offences. More over all the points raised by the petitioners have to be considered only during the trial. The petitioners at liberty to raise all the points before the Court below during the trial.

6. It is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in Crl.A.No.255 of 2019 dated 12.02.2019 - Sau. Kamal Shivaji Pokarnekhar 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.

.....
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 proceedings in C.C.No.172 of 2017. However, considering the case is of the year 2015, the trial

Court is directed to complete the trial proceedings within a period of six months from the date of receipt of copy of this Order.

8. With the above directions, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Thirukovilur.
2. Do Thro' The Chief Judicial Magistrate,
Villupuram.
3. The Sub-Inspector of Police,
Manalurpet Police Station,
Manalurpet, Villupuram District.
Crime No.5 of 2015.
4. The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.R.Diwakaran, Advocate, S.R.No.38629

+1cc to Mr.R.Arun Dattan, Advocate, S.R.No.38366

सत्यमेव जयते

Cr1.O.P.No.16876 of 2017

SKV(CO)
CS/13/06/2019

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