

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.1873 of 2017
and
Crl.M.P.No.1359 of 2017

1.D.Karpagam
2.R.Dhanasekaran
3.D.Karneeshwaran
4.D.Satheeswaran
5.D.Kameshwaran

... Petitioners

Vs.

1. The State, rep. by,
The Inspector of Police,
Central Crime Branch Team XI,
O/o. The Commissioner of Police,
Chennai.

2. Bhuvana @ Bhuvaneswari

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of CrPC., to call for the entire records pertaining to the complaint made by the defacto complainant Mrs.Bhuvana alias Bhuvaneswari on 23.07.2015 in CCB Crime No.283 of 2015 on the file of the respondent and any / all other record/s connected therewith to quash the complaint in CCB Crime No.283 of 2015 on the file of the respondent.

For Petitioners : M/s.T.Sivagnanasambandan

For Respondent-1: Mr.C.Raghavan

Government Advocate (Criminal Side)

For Respondent-2: M/s.M.A.Gowthaman

O R D E R

This Criminal Original Petition is filed by the petitioners seeking to quash the complaint made by the defacto complainant Mrs.Bhuvana alias Bhuvaneswari on 23.07.2015 in CCB Crime No.283 of 2015 on the file of the respondent police.

2. The learned Counsel appearing for the petitioners would submit that the petitioners are an innocent person and the have not committed any offence as alleged by the prosecution. Without any base, the first respondent police has registered a case in CCB Crime No.283 of 2015 for the offences under Sections 406 and 420 read with section 34 IPC, as against the petitioners. Hence he prayed to quash the same.

3. The learned Additional Public Prosecutor would submit that the investigation is almost completed and the respondent police have only to file final report.

4. Heard M/s.T.Sivagnanasambandan, learned counsel appearing for the petitioners and Mr.C.Raghavan, learned Government Advocate (Criminal Side) appearing for the first respondent.

5. It is seen from the First Information Report that there is a specific allegation as against the petitioners, 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 into investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

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 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.

.....

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, considering the crime is of the year 2015, the first respondent is directed to complete the investigation CCB in Crime No.283 of 2015 and file a final report within a period of four weeks from the date of receipt of a copy of this Order, before the jurisdiction Magistrate, if not already filed.

8. With the above directions, this Criminal Original Petition is dismissed. Consequently, connected CrI.M.P.No.1359 of 2017 is also closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

msm

To

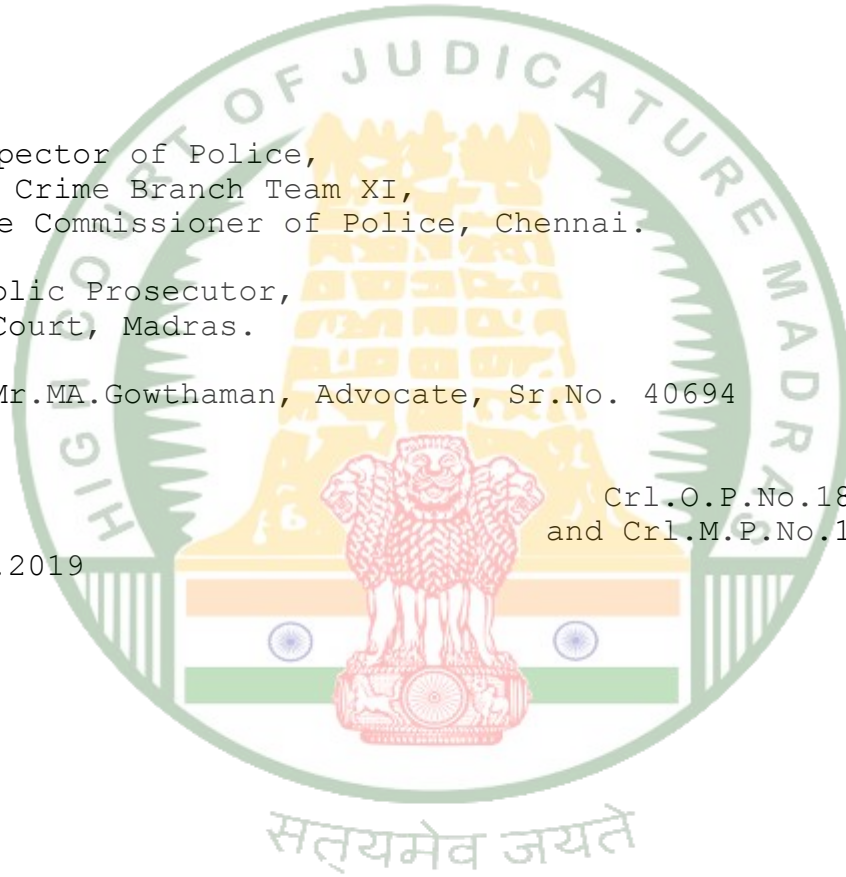
1. The Inspector of Police,
Central Crime Branch Team XI,
O/o. The Commissioner of Police, Chennai.

2. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.MA.Gowthaman, Advocate, Sr.No. 40694

CrI.O.P.No.1873 of 2017
and CrI.M.P.No.1359 of 2017

CSL/26.06.2019



WEB COPY