

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 25.04.2019

CORAM:
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.25695 of 2018
and
Crl.M.P.No.14646 of 2018

S.David

... Petitioner

Vs.

1.The State,
Represented by the Inspector of Police,
T15, SRMC Police Station,
Ambattur.

2. Albert

.... Respondents

Prayer : Criminal Original Petition filed under Section 482 of CrPC., to call for the records the FIR in Crime No.637 of 2018 on the file of the T-15, SRMC Police Station and quash the same.

For Petitioner : Mr.M.T.Arunan

For Respondent-1: Mr.C.Raghavan
Government Advocate (Crl. Side)

For Respondent-2: Mr.L.Ramu

ORDER

This Criminal Original Petition has been filed by the petitioner seeking to quash the FIR in Crime No.637 of 2018, pending on the file of the T-15, SRMC Police Station.

2. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.637 of 2018 for the offences under Sections 294(b), 406, 420 and 506(i) of IPC, as against the petitioner. 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 Mr.M.T.Arunan, learned counsel appearing for the petitioner and Mr.C.Raghavan, learned Government Advocate (Crl. Side) for the first respondent and learned counsel appearing for the 2nd respondent and perused the materials available on record.

5. 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 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. However, the learned counsel appearing for the petitioner would submit that the dispute between the petitioner and the second respondent in respect of the property. In this regard, he has filed a suit in SR.No.8240 of 2018 before the learned Principal District Judge, Tiruvallur, in which he has also obtained an order of interim injunction as against the second respondent. Further, the learned counsel submitted that there is the dispute between the petitioner and the second respondent are civil in nature.

8. Considering the facts and circumstances of the case, this Court is not inclined to quash the FIR. However, considering the crime is of the year 2018, the petitioner is directed to produce all the relevant records, the suit documents and regarding the divorce proceedings between the petitioner and his wife before the Investigating Officer viz., The Inspector of Police, CCB, Chennai. On receipt of the same, the Investigating Officer is directed to complete the investigation in Crime No.637 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 jurisdiction Magistrate, if not already filed.

9. With the above directions, this Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

msm

To

- 1.The Inspector of Police,
CCB, Chennai.
2. The Inspector of Police,
T15, SRMC Police Station,
Ambattur.
- 3.The Public Prosecutor,
High Court, Madras.

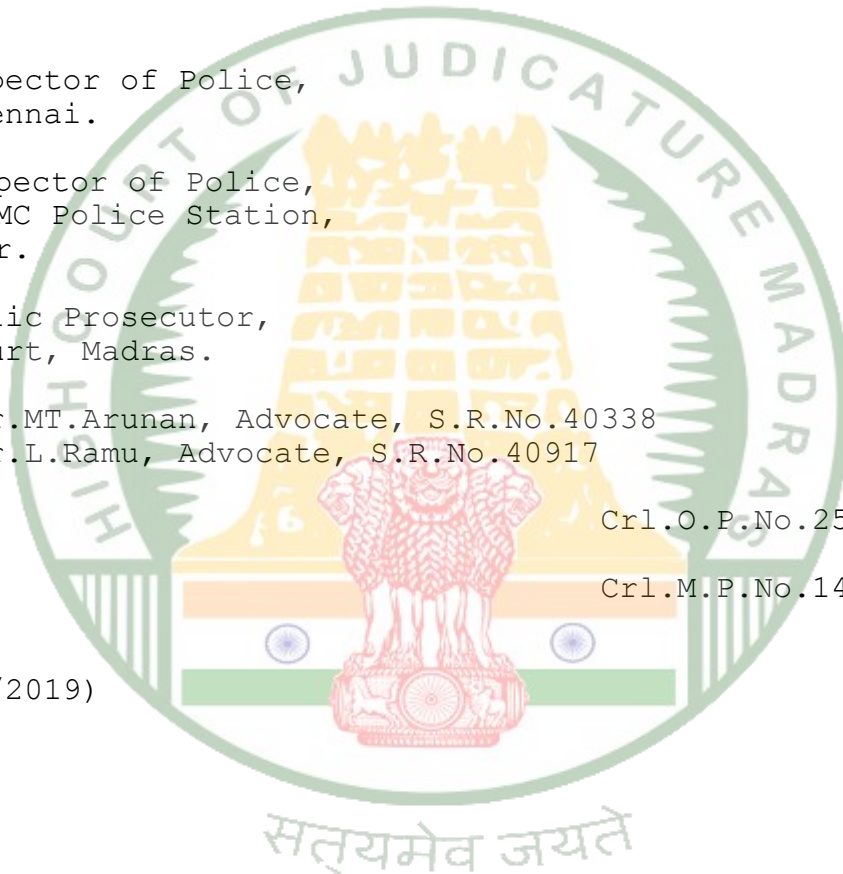
+1cc to Mr.MT.Arunan, Advocate, S.R.No.40338

+1cc to Mr.L.Ramu, Advocate, S.R.No.40917

Crl.O.P.No.25695 of 2018
and
Crl.M.P.No.14646 of 2018

SSD (CO)

RRS (10/05/2019)



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