



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.11.2019
CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P. (MD) .No.4186 of 2019

and

CRL.M.P (MD) No.2521 and 10133 of 2019

Muthukrishnan

... Petitioner/Sole Accused

Vs.

1.The Deputy Superintendent of Police,
Bodi Sub Division, Theni District.

2.The Inspector of Police,
Chinnamanur Police Station,
Theni District.

(Crime No.533 of 2018)

...Respondents 1&2/Complainant

3.Pandian

... 3rd Respondent/Defacto Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the FIR in Crime No.533 of 2018, on the file of the second respondent herein and quash the same as illegal.

For Petitioner	: Mr.A.Mithunchakravarthi
For R1 and R2	: Mr.K.Suyambulinga Bharathi, Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No.533 of 2018, on the file of the second respondent police.

2.The case of the prosecution is that the petitioner and the deceased Ramya loved each other. Against the wish of deceased, her parents arranged the marriage with another person. Therefore, the petitioner and the deceased consumed poison.

3.The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent and he also consumed poison, unfortunately, he did not die in the attempt. Without considering the entire facts of the case, the respondent police registered a case in Crime No. 533 of 2018 for the offence under Section 174 (3) of IPC.



4.The learned Government Advocate (Crl.Side) on behalf of the official respondents would submit that the respondent police, subsequently, altered Sections 306 and 309 of IPC and the respondent police yet to be filed the final report.

5. Heard both sides and perused the materials available on record.

6.It is seen from the First Information Report that there are 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 in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

7.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

<https://hcservices.ecourts.gov.in/hcservices> 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.

6.....

7.....

8.....

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 discussion, this Court is not inclined to quash the First Information Report. Hence this Criminal Original Petition stands dismissed.

9. In view of the above, this Court is not inclined to quash the FIR. Accordingly, this criminal original petition is dismissed. However, the second respondent is directed to complete the investigation and file a final report within a period of eight weeks from the date of receipt of copy of this Order, before the jurisdictional Magistrate. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)



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To

1.The Deputy Superintendent of Police,
Bodi Sub Division, Theni District.

2.The Inspector of Police,
Chinnamanur Police Station,
Theni District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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MK (16.12.2019) 4P 4C