



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)No.8476 of 2019

and

Crl.M.P.(MD)No.5324 of 2019

WEB COPY

1.S.R.James

2.Justin James

... Petitioners / Accused 1 & 2

-vs-

1. The State represented by
the Inspector of Police,
City Crime Branch,
Madurai.

(Crime No.3 of 2019)

... Respondent / Complainant

2.T.K.Ramesh Babu

... Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in Crime No.03 of 2019, on the file of the Inspector of Police, CCB, Madurai and quash the same.

For Petitioners	: Mr.K.P.S.Palanivelrajan
For R-1	: Mr.K.Suyambulinga Bharathi, Government Advocate(Crl.side)
For R-2	: Mr.S.Gokulraj

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No.03 of 2019, on the file of the first respondent Police.

2. It is alleged that due to money dispute between the petitioners and the second respondent, the second respondent / de facto complainant preferred a complaint before the first respondent Police.

3. Heard the learned counsel on either side and perused the materials available on record.

4. In the considered view of this Court, the grounds raised by the petitioners are purely factual in nature. The said defence can be raised only before the Court below, in the course of trial and the Court below shall consider the same on its own merits and in accordance with law.

5. It is 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 in the case of **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."



6. In view of the above decision, this Court is not inclined to entertain this petition. Accordingly, this Criminal Original Petition is dismissed.

7. At this juncture, the learned Counsel for the petitioners submitted that a direction may be issued to the first respondent Police to complete the investigation within a time frame.

8. Accepting the said submission, the first respondent Police is directed to complete the investigation in Crime No.03 of 2019 and file a final report before the concerned Jurisdictional Magistrate within a period of eight weeks from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Inspector of Police,
City Crime Branch, Madurai.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

tsg

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