



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD)No.12471 of 2019

and

Crl.M.P.(MD)No.7799 & 7800 of 2019

WEB COPY

1. Ganeshkumar
2. Kalaiselvi

...Petitioners/Accused 1 & 2

-Vs-

1. State represented by
The Inspector of Police
Karaikudi North Police Station,
Sivagangai District
(In Crime No.569 of 2016) : Respondent No.1/Complainant

2. V.Karikalan : 2nd Respondent/Defacto complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to charge sheet in P.R.C.No.37 of 2018 on the file of the learned Principal District Munsif cum Judicial Magistrate, Karaikudi and quash the same

For Petitioners : Mr.C.Jeyaprakash
For R1 : Mr.K.Suyambulinga Bharathi
Government Advocate (crl.side)

ORDER

This petition has been filed to quash the charge sheet in P.R.C.No.37 of 2018 on the file of the learned Principal District Munsif cum Judicial Magistrate, Karaikudi.

2.Heard both sides.

3.A careful perusal of entire materials available on record, the charge sheet discloses a *prima facie* offence against the petitioners and there is no reason to interfere with the same. 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



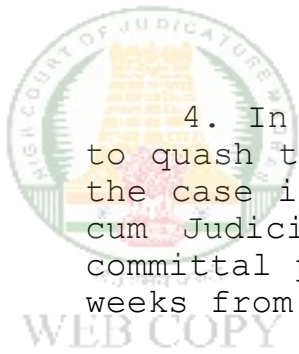
WEB COPY

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."



4. In view of the above discussion, this Court is not inclined to quash the charge sheet P.R.C.No.37 of 2018. However, considering the case is of the year 2018, the learned Principal District Munsif cum Judicial Magistrate, Karaikudi, is directed to complete the committal proceedings in P.R.C.No.37 of 2018 within a period of two weeks from the date of receipt of copy of this Order.

5. At this juncture, the learned Counsel for the petitioners submitted that the second petitioner is being a lady and aged about 50 years, hence, the presence of the second petitioner before the Trial Court may be dispensed with.

6. Accepting the said submission, the personal appearance of the second petitioner/Kalaiselvi alone is dispensed with and she shall be represented by a counsel after filing appropriate application. The second petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment.

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

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1. Principal District Munsif cum Judicial Magistrate,
Karaikudi

2. The Inspector of Police
Karaikudi North Police Station,
Sivagangai District.

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

+1CC to Mr.C.Jeyaprakash, Advocate, SR.No. 85982.

Crl.O.P. (MD)No.12471 of 2019

06.09.2019

CS(27.09.2019) 3P 5C