



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.09.2019

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P. (MD) .No.1390 of 2018

and

CRL.M.P. (MD) Nos.597 and 598 of 2018

Syed Mydeen

... Petitioner/Sole Accused

Vs.

1.The Inspector of Police,
Alangulam Police Station,
Tirunelveli District.
(Crime No.443 of 2013)

... 1st Respondent/Complainant

2.Anbuchezhian

... 2nd Respondent/
Defacto Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records relating to the impugned charge sheet in C.C.No.607 of 2016 on the file of the learned Judicial Magistrate, Alankulam, Tirunelveli District and quash the same.

For Petitioner : Mr.V.Sasikumar

For R1 : Mr.R.Anandharaj,
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to quash the impugned charge sheet in C.C.No.607 of 2016 on the file of the learned Judicial Magistrate, Alankulam, Tirunelveli District.

2.The learned Counsel appearing for the petitioner would submit that the second respondent herein had lodged a false complaint against the petitioner. Without any base, the first respondent police registered a case in Crime No.443 of 2013 for the offences under Section 304 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.V.Sasikumar, learned counsel appearing for the petitioner and Mr.R.Anandharaj, learned Additional Public Prosecutor appearing for the first respondent.

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5. The petitioner is the sole accused in Crime No.443 of 2013. The case was registered for the offences under Section 304 IPC. The case of the prosecution is that the petitioner was riding in a Motor cycle and dashed against the vehicle of the second respondent's wife. It is also seen from the statement recorded under Section 161(3) Cr.P.C that there are evidences to attract the offence under Section 304 IPC. 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."

6.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 in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

7.In view of the above discussion, this Court is not inclined to quash the Charge Sheet. Hence this Criminal Original Petition stands dismissed. Since the case is of the year 2016, the learned Judicial Magistrate, Alankulam, Tirunelveli District is directed to complete the trial within a period of three months from the date of receipt of a copy of this Order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Judicial Magistrate, Alankulam,
Tirunelveli District.

2.The Inspector of Police,
Alangulam Police Station,
Tirunelveli District.



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

+1 CC to M/s.V. SASI KUMAR, Advocate (SR-85409[F] dated
05/09/2019)

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JMN(27.09.2019) 4P : 5C