



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2019

CORAM

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

CRL.O.P.(MD).No.3596 of 2018

and

CRL.M.P.(MD)Nos.1710 and 1711 of 2018

WEB COPY

1.Narayanan
2.Muthuraman
3.Palaniappan

... Petitioners/Accused 2,7,8

Vs.

1.State represented by
The Inspector of Police,
Kundrakudi Police Station,
Sivagangai District.
(Crime No.61 of 2017)

2.Vignesh

..Respondents

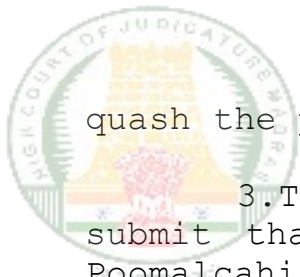
PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.113 of 2017, on the file of the learned District Munsif cum Judicial Magistrate, Karaikudi and quash the same as against these petitioners.

For Petitioner : Mr.R.Mathiyalagan
For R1 : Mr.K.Suyambulinga Bharathi,
Government Advocate (Criminal Side)

O R D E R

This Criminal Original Petition has been filed to quash the impugned charge sheet in C.C.No.113 of 2017 on the file of the learned District Munsif cum Judicial Magistrate, Karaikudi.

2.The learned Counsel appearing for the petitioners would submit Without any base, the respondent police registered a case in Crime No.61 of 2017 for the offences under Sections 143, 188 and 304(A) IPC, as against the petitioners. He also submitted that the respondent has not produced any documents and it is not stated in the charge sheet that the petitioners are the committee members in the aforesaid temple. He also submitted that either in the complaint or in the charge sheet, they were not stated anything that the petitioners are present in the scene of occurrence. Without any basis the case was taken on file in C.C.No.113 of 2017, by the learned District Munsif cum Judicial Magistrate, Karaikudi. Therefore, the petitioners have filed this petition to



quash the proceedings.

3. The learned Government Advocate (Criminal Side) would submit that on 02.04.2017, at N.Vairavanpatti Village, Arulmigu Poomalcahiamman Temple festival was conducted by the festival organizer. In this regard, the committee has organized for conducting Manju Virattu in the village, without any permission from the concerned authorities. Due to which, one 'kattumadu' gored the Hemavarshini, who is the daughter of one Saravanan and the girl was died in the hospital. Hence the case was registered by the respondent police.

4. Heard Mr.R.Mathiyalagan, learned counsel appearing for the petitioner and Mr.K.Suyambulinga Bharathi, learned Government Advocate (Criminal Side) appearing for the first respondent.

5. The petitioners are accused in Crime No.61 of 2017. The case was registered for the offences punishable under Sections 143, 188 and 304(A) IPC. The case of the prosecution is that the petitioners were conducting 'Manju virattu' without getting any valid permission from the concerned authorities, due to which, one girl was died. 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."

It is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in **Crl.A.No.579 of 2019** dated **02.04.2019** in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr.**, as follows:-

" 12. So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

<https://hcservices.ecourts.gov.in/hcservices> 13. In view of the foregoing discussion, we



allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

6.It is seen from the First Information Report that there is a 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.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 2017, the learned District Munsif cum Judicial Magistrate, karaikudi, is directed to complete the trial within a period of six months from the date of receipt of a copy of this Order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar (CS)

das

To

1.The District Munsif cum Judicial Magistrate,
karaikudi.

2.The Inspector of Police,
Kundrakudi Police Station,
Sivagangai District.

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

+1 CC to M/s.R.MATHIYALAGAN, Advocate (SR-86945[F] dated
17/09/2019)

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