



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 23.09.2019
CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P (MD) No.13154 of 2019

and

CrI.M.P.(MD)No.8077 of 2019

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1. P. Ponselvaraj
2. P.Suganthi
3. Rupan Paulraj ... Petitioners /Accused 1 to 3

Vs.

1.The Inspector of Police
District Crime Branch (ALGSC)
Thoothukudi,
Thoothukudi District. ... 1st Respondent/Complainant

2. K.S.J.Jayarani Ammal
3. K.S.J.Kumar
4. K.S.J Sivasubramaniyaraj ... 2 to 3 Respondents/Defacto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in Cr.No.10 of 2015 on the file of the Inspector of Police, District Crime Branch (ALGSC), Thoothukudi District.

For Petitioners : Mr.R.Johan Sathyan
For R1 : Mr.K.Suyambulinga Bharathi,
Government Advocate(crl.side)

O R D E R

This Criminal Original Petition has been filed to quash the F.I.R. in Crime No.10 of 2015 on the file of the first respondent.

2.Heard the learned counsel for the petitioners and the learned Government Advocate (crl.side) for the respondent police.

3.A careful perusal of entire materials available on record, the First Information Report 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 ***CrI.A.No.255 of 2019*** dated ***12.02.2019*** - ***Sau. Kamal Shivaji Pokarnekhar 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."

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4.Hence, this criminal original petition is dismissed. However, the the first respondent is directed to complete the investigation and file a final report within a period of eight weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Inspector of Police
District Crime Branch (ALGSC)
Thoothukudi,
Thoothukudi District.

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

+1 CC to Mr.R. JOHN SATHYAN, Advocate (SR-88628[F] dated 23/09/2019)

Order made in
CRL.O.P (MD) No.13154 of 2019
23.09.2019

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_MK (04.10.2019) 3P 4C