



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2019

CORAM:

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

Crl.O.P. (MD) No.12542 of 2019

and

Crl.M.P (MD) No.7817 of 2019

Nirmala

...Petitioner

Vs.

1. The State rep. by
The Sub Inspector of Police
Kodaikanal Police Station
Dindigul

2. Thiru.Abiya Pappu Rajiv
The Postal Inspector
Kodaikanal Sub Division
Now at Batlagundu

...Respondents

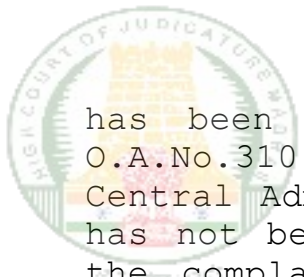
PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to the FIR in Crime No.29 of 2019 on the file of the Sub Inspector of Police, Kodaikanal Police Station, Dindigul and quash the same.

For Petitioner : Mr.K. Appadurai
For Respondent : Mr.K.Suyambulinga Bharathi
No.1 Government Advocate(Crl.Side)

ORDER

This petition has been filed to quash the proceedings in Crime No.29 of 2019 on the file of the Sub Inspector of Police, Kodaikanal Police Station, Dindigul

2. The learned counsel for the petitioner would submit that the petitioner is the sole accused. When she was working as a Post Master in Kodaikanal Police Station from 05.01.2011 to 29.08.2012 for getting supply of water to the Inspection Quarters and Holiday home belonging to Postal Department the petitioner alleged to have fabricated earned leave/casual leave bill in the name of fake persons and misappropriated a sum of Rs. 54,010/- totally along with interest and penal interest and she had misappropriated a sum of Rs.90,485/- The First Information Report has been registered after eight years without iota of single piece of evidence. The first respondent has mechanically registered the First Information Report based on the complaint lodged by the second respondent. Departmental enquiry was conducted and she



has been removed from service, which has been challenged in O.A.No.310 of 2016 and which is pending on the file of the Central Administrative Tribunal, Chennai and delay of seven years has not been explained by the second respondent for lodgement of the complaint as against the petitioner. Further he submitted that the petitioner is now aged about 63 years and already she was removed from service. He would further submit that while she was granted anticipatory bail without prejudice to her right she also deposited part of the amount to the credit of the crime number 29 of 2019 registered for offences under Section 420 of IPC.

3. It is also 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. 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 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.

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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. It is also seen from the First Information Report that the complaint was lodged by the second respondent and charge sheeted and a charge enquiry was conducted and based on the enquiry report, she was removed from service. Though it is challenged in O.S.No.310 of 2016, on the file of the Central Administrative Tribunal, Chennai, Criminal proceedings can also go parallelly and no impediment to proceed against the petitioner.

5. In the result, this Criminal Original Petition is dismissed. Consequently connected miscellaneous petition is also closed. However the first respondent is directed the complete the investigation and file the final report within a period of three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

Sub Assistant Registrar(CS)



To

1. The Sub Inspector of Police
Kodaikanal Police Station
Dindigul

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

+1 CC to M/s.K.APPADURAI, Advocate (SR-85986[F] dated
09/09/2019)

CrI.O.P.(MD) No.12542 of 2019
09.09.2019

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