



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2019

CORAM:

THE HON'BLE **MR. JUSTICE G.K. ILANTHIRAIYAN**

Crl.O.P. (MD) No.15053 of 2019

and

Crl.M.P. (MD) Nos.8991 of 2019

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1.Siva

2.Pratheep Raj

: Petitioners/Accused Nos.1&2

-vs-

1.State rep.by

The Sub Inspector of Police,
Batlagunu Police Station,
Dindigul.

: 1st Respondent/Complainant

2.Rajamani

: 2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the entire records pertaining to the Cr.No.158 of 2019 on the file of the first respondent police and quash the same.

For Petitioners : Mr.P.Vijendran

For R1 : Mr.K.Suyambulinga Bharathi,
Government Advocate(Crl.side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Cr.No.158 of 2019 on the file of the first respondent police.

2.It is seen that due to previous enmity, there was a dispute arose between the parties. It is submitted that counter case also registered in crime No.157 of 2019 for the offence under Sections 323, 304 and 506(i) IPC.

3.Heard the learned counsel on either side and perused the materials on record.

4.In the considered view of this Court, the grounds raised by the petitioners are purely factual in nature. The said defence can be raised only before the Court below, in the course of trial and the Court below shall consider the same on its own merits and in accordance with law.

5.It is 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."

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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, this Court is not inclined to entertain this petition. Accordingly, this Criminal Original Petition is dismissed.

8.However, the first respondent is directed to complete the investigation by following the Rule 588(a) of the Police Standing Order and file final report in both the cases, 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 (CS-III)

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Sub Assistant Registrar(CS)

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To

1.The Sub Inspector of Police,
Batlagunu Police Station, Dindigul.

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

+1 CC to M/s.D.ANBARASU, Advocate SR-93591.

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