



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.11.2019
CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD) .No.12698 of 2018
and

Crl.M.P. (MD) No.5773 of 2018

1.H.Diwan Meerapillai
2.K.Muthuvalavan
3.Paramasivan
4.K.Mohamed Meeran

... Petitioners/Accused 1 to 4

Vs.

1.State rep. by,
The Inspector of Police,
Vasudevanallur Police Station,
Tirunelveli District.
(Crime No.231 of 2017)

... 1st Respondent/Complainant

2.Asan Mohamed

... 2nd Respondent/Defacto Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the complaint in Crime No.231 of 2017 on the file of the first respondent police and quash the same.

For Petitioners : Mr.S.Chellapandian
For 1st Respondent : Mr.K.Suyambulinga Bharathi
Government Advocate (crl.side)
For 2nd Respondent : Mr.C.Venkatesh
for Ajmal Associates

O R D E R

This petition has been filed to quash the proceedings in Crime No.231 of 2017 on the file of the first respondent police.

2.Heard both side.

3.A careful perusal of entire materials available on record, the First Information Report discloses a *prima facie* offence against the petitioner 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 ***Crl.A.No.255 of 2019*** dated ***12.02.2019*** - ***Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors.,*** as follows:-

<https://hcservices.ecourts.gov.in/hcservices/>



"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, the criminal original petition is dismissed. However, the petitioner is directed to submit all the relevant documents pursuant to the allegations before the first respondent police. On receipt of the same, the first respondent is directed to pursue the materials, 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. Further, the second respondent is directed to cooperate the investigation in Crime No.231 of 2017 on the file of the first respondent police. Consequently, the connected Crl.M.P. (MD).No.5773 of 2018 is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS)

vsg

To

- 1.The Inspector of Police,
Vasudevanallur Police Station,
Tirunelveli District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-100521[F] dated 22/11/2019)
+1 CC to Mr.S.CHELLAPANDIAN, Advocate (SR-100756[F] dated 22/11/2019)

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MK (12.12.2019) 3P 5C