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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.11.2019

CORAM:

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

Crl.O.P.(MD)No.14533 of 2018

and

Crl.M.P(MD) No.6498 of 2018

Elanchezhiyan ... Petitioner

Vs

1. The Inspector of Police
   Medical College Police Station
   Tirunelveli City

2. Mariappan ... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to Call for the records in Crime No. 51 of 2018 on the file of the Medical College Police Station, Tirunelveli City and quash the same as against the petitioner

For Petitioner : Mr.N.Mohideen Bashs

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

For Respondent No.2 :Mr.Ananth C.Rajesh

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No. 51 of 2018 on the file of the Medical College Police Station, Tirunelveli City as against the petitioner

2. The learned Counsel appearing for the petitioner would submit that the petitioner is innocent he has not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No. 51 of 2018 for the offences under Sections 147,148,294(b),323,324,307 of IPC as against the petitioner.

3. The learned Government Advocate(Crl.Side) would submit that the investigation is almost completed and the respondent police have only to file final report.

4. Heard both sides and perused the materials available on record.

5.It is seen from the First Information Report that there are specific allegation as against the petitioner, which has to be investigated. Further the FIR is not an encyclopedia and it need not

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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.

6.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.*
>
> *6.....*
> *7.....*
> *8.....*

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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."

7. In view of the above, this Court is not inclined to quash the FIR in Crime No. 51 0f 2018.Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is also dismissed. However the petitioner is directed to produce the orders passed by this Court as well and the order passed by the revenue authorities in respect of restoring the possession in respect of disputed property to the first respondent police and on receipt of the same the first respondent police is directed to complete the investigation in both the crime numbers 51 and 52 of 2018 following the police standing order for case and counter case and file a final report within a period of twelve weeks from the date of receipt of copy of this Order, before the jurisdiction Magistrate.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Inspector of Police
   Medical College Police Station
   Tirunelveli City

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

+1 CC to M/s.N. MOHIDEEN BASHA, Advocate (SR-100926[F] dated 25/11/2019)

+1 CC to M/s.ANANTH C.RAJESH, Advocate (SR-100453[F] dated 22/11/2019)

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