



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2019

CORAM

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

CRL.O.P. (MD) .No.17643 of 2018

Sahul Hameed

...Petitioner

Vs.

1.State Rep.by

The Inspector of Police,

District Crime Branch,

Madurai.

(Crime No.19 of 2018)

2.Mohammed Abbas

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the First Information Report in Crime No.19 of 2018 on the file of the first respondent and quash the same as far as the petitioner is concerned as illegal.

For Petitioner : Mr.T.Vadivelan

For R1 : Mr.K.Suyambulinga Bharathi,
Government Advocate (Criminal Side)

R2 :Mr.R.Karunanidhi

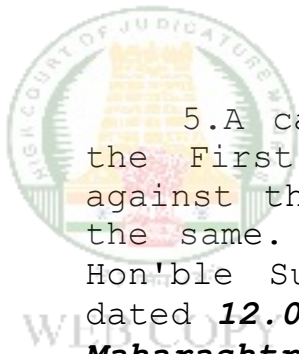
ORDER

This petition has been filed to quash the F.I.R. in Crime No.19 of 2018 on the file of the first respondent police for offences punishable under Sections 120(B), 420 of IPC, as against the petitioner.

2.The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Without any basis, the respondent police registered a case in Crime No.19 of 2018 for the offences under Sections 120(B), 420 of IPC, as against the petitioner. Hence he prayed to quash the same.

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

4. Heard Mr.T.Vadivelan, learned counsel appearing for the petitioner and Mr.K.Suyambulinga Bharathi, learned Government Advocate (Criminal Side) appearing for the first respondent.



5.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 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."

6.In view of the above discussion, this Court is not inclined to quash the FIR. However, considering the crime is of the year 2018, the first respondent is directed to complete the investigation in Crime No.19 of 2018 and file a final report within a period of four weeks from the date of receipt of copy of this Order, before the jurisdiction Magistrate.

7.In view of the above, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar (CS)

Das

To

1.The Inspector of Police,
District Crime Branch,
Madurai.

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

+1 CC to M/s.T.VADIVELAN, Advocate (SR-88124[F] dated 20/09/2019)

+1 CC to M/s.R.KARUNANITHI, Advocate (SR-88164[F] dated 20/09/2019)

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