

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.20626 of 2018
and
Crl.MP.No.11085 of 2018

1.Chanthiran
2.Akash

....Petitioners/Accused

Vs.

1.State Rep by,
The Inspector of Police,
Orathur Police Station,
Cuddalore District

....1st Respondent/Respondent

2.Arulselvan

....2nd Respondent/Defacto Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records and quash the FIR filed in Cr.No.43 of 2018 pending investigation on the file of the first respondent police insofar as the petitioners/A2 & A4 are concerned.

For Petitioners : Mr.K.Gandhi Kumar

For Respondents

For R1

:

Mr.M.Mohamed Riyaz

Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the FIR filed in Cr.No.43 of 2018 pending investigation on the file of the first respondent police insofar as the petitioners/A2 & A4 are concerned.

2. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.43 of 2018 for offences under Sections 341, 294(b), 323, 506

(i) of IPC, as against the petitioners. Hence he prayed to quash the same.

3. The learned Additional Public Prosecutor would submit that the investigation is almost completed and the respondent police have only to file final report.

4. Heard Mr.K.Gandhi Kumar, learned counsel appearing for the petitioners and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the first respondent.

5. It is seen from the First Information Report that there are specific allegations as against the petitioners to attract the offences, which have to be investigated in depth. Further the FIR is not an encyclopedia and it need not contain all facts and 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 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 in the case of 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.

.....

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 discussion, this Court is not inclined to quash the First Information Report. However, the learned counsel for the petitioners submitted that the second petitioner have attended the University examination very much before the Annamalai University on the date of alleged occurrence on 23.04.2018, therefore, he did not commit any offence. Therefore, the petitioners are directed to submit all the documents to show that the second petitioner attended examination on 23.04.2018 at the time of occurrence, and on

receipt of the same, the first respondent shall consider those documents and complete investigation and file final report within a period of twelve weeks from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed.

8. With the above directions, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
Orathur Police Station,
Cuddalore District

2.The Public Prosecutor,
High Court of Madras.

+1cc to M/s.K.Gandhi Kumar, Advocate, S.R.No.22884

Crl.O.P.No.20626 of 2018

SAI (CO)
RN(02/06/2020)

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