

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.3204 of 2020

and

Crl.M.P.No.1874 of 2020

1. R.Vinoth Kumar,
S/o.D.Raman
2. D.Raman,
S/o.Duraikannu
3. R.Selvi,
W/o.Raman,
All are residing at
No.1/29, Bajanai Kovil Street,
Nathamedu Village, Pakkam Post,
Thirunindravur - 602 024. Petitioners/A2 to A4

Vs.

1. State represented by
The Inspector of Police,
T-11 Thirunindravur Town Police Station,
Thirunindravur - 602 024.
2. Karthick,
S/o.Kumar,
Bajanai Kovil Street,
Nathamedu, Pakkam Post,
Thirunindravur - 602 024. Respondents/Complainant &
Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in FIR bearing Crime No.948 of 2019 on the file of T-11 Thirunindravur Police Station and quash the same.

For Petitioners : No appearance

For Respondents

For R1 : Mr.S.Karthikeyan
Additional Public Prosecutor
For R2 : Mr.T.Muruganandham

ORDER

This petition has been filed to quash the F.I.R. in Crime No.948 of 2019 registered by the first respondent police for offences under Sections 294(b), 323, 355 and 506(ii) of IPC, as against the petitioners.

2. The case of the prosecution is that, on the complaint lodged by the second respondent, the first respondent police registered a case in Crime No.948 of 2019 for the offences under Sections 294(b), 323, 355 and 506(ii) of IPC, as against the petitioners and the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. The petitioners also lodged complaint against the second respondent/defacto complainant and the same has also been registered in Crime No.948 of 2019. Hence, without any base, the first respondent police registered a case as against the petitioners. Hence they prayed to quash the same.

3. The learned Additional Public Prosecutor would submit that the investigation in both complaint lodged by the petitioners as well as the respondents is almost completed and the first respondent police have only to file final report.

4. Heard Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the first respondent and Mr.T.Muruganandham, learned counsel appearing for the second respondent. There is no representation on behalf of the petitioners.

5. It is seen from the First Information Report that there are specific allegations as against the petitioners to attract the offences, which has 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.

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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 discussion, this Court is not inclined to quash the First Information Report. Accordingly, this Criminal Original Petition stands dismissed. It is also seen that the petitioners also lodged complaint as against the second respondent/defacto complainant and the same is also pending before the first respondent police. Hence, the first respondent police is directed to complete the investigation by following the procedure laid down under Section 558(a) of Police Standing Order and file a final report within a period of twelve weeks from the date of receipt of a copy of this Order, before the jurisdiction Magistrate, if not already filed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (ADI MDU)

//True copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
T-11 Thirunindravur Town Police Station,
Thirunindravur - 602 024.
2. The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.3204 of 2020
and
Cr1.M.P.No.1874 of 2020

KS (CO)
GMY (14/09/2020)

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