IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P. Nos. 4638 & 755 of 2019
and
Crl.M.P. Nos. 2743 & 492 of 2019

Crl.O.P. No. 4638 of 2019

1. Jayakaran Vasudevan
2. V.Saravanan ... Petitioners

Vs.

1. Radhika
2. The Inspector of Police (L&O)
   T-1, Ambattur Police Station,
   Ambattur. ... Respondents

Crl.O.P. No. 755 of 2019

Radhika ... Petitioner

Vs.

1. The Sub Inspector of Police,
   Puzhal Police Station,
   Chennai - 600 066.

2. Jayarakan Vasudevan

3. The Inspector of Police,
   Ambattur Police Station,
   Chennai - 600 053. ... Respondents

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Prayer in Crl.O.P. No. 4638 of 2019: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in Cr. No. 258 of 2019 pending on the file of Inspector of Police, T-1 Police Station, Ambattur and quash the F.I.R.

Prayer in Crl.O.P. No. 755 of 2019: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in F.I.R. in Cr. No. 731 of 2018 dated 01.12.2018 pending investigation on the file of the Third Respondent Police and quash the same against the Petitioner.

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In Crl.O.P. No. 4638 of 2019

For Petitioners : No appearance

For Respondents

For R1 : Mr.J.N.Narash Kumar

For R2 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

In Crl.O.P. No. 755 of 2019

For Petitioner : Mr. J.N.Naresh Kumar

For R1 & R3 : Mr. M.Mohamed Riyaz
Additional Public Prosecutor

For R2 : No appearance

COMMON ORDER

The present petitions have been filed to quash the F.I.R. in Crime Nos. 258 of 2019 & 731 of 2018 registered by the respondent police for offences under Sections 143, 447, 341, 294(b), 384 & 506 (ii) of IPC and 342, 384, 380, 386, 387, 406, 420, 506(ii) and 120(b) of IPC and as against the petitioners.

2. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent persons and they had not committed any offence as alleged by the prosecution. Without any base, the respondent police registered a case in Crime Nos. 258 of 2019 & 731 of 2018 for the offences under Sections 143, 447, 341, 294(b), 384 & 506 (ii) of IPC and 342, 384, 380, 386, 387, 406, 420, 506(ii) and 120(b) of IPC, as against the petitioners. Hence they 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.J.N.Naresh Kumar, learned counsel appearing for the Petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the respondents.

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.

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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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> .....
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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

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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, the present Criminal Original Petitions stand dismissed. However, considering the crime is of the year 2018 & 2019, the respondent police is directed to complete the investigation in Crime Nos. 258 of 2019 & 731 of 2018 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, if not already filed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To
1. The Inspector of Police (L&O)
T-1, Ambattur Police Station,
Ambattur.

2. The Sub Inspector of Police,
Puzhal Police Station,
Chennai - 600 066.

3. The Inspector of Police,
Ambattur Police Station,
Chennai - 600 053.

4.The Public Prosecutor,
High Court, Madras.
+2 cc's to Mr.JN.Nareshkumar,advocate,sr.23151,23150.
Br(co)
krd 20/7

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