

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P.No.8881 of 2019

1.G.Venkatesan, ... Petitioners
S/o.Govindarajulu Samulu

2.V.Umamaheshwari,
W/o.Venkatesan

3.Rekha Shree,
W/o.Suresh Kannan

4.K.Suresh Kannan,
S/o.Krishnamoorthy

VS

1.State of Tamilnadu, rep. By ... Respondents
Inspector of Police,
Poonamallee Police Station,
Chennai.

2.Subashini,
W/o.Chandru

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, seeking to call for the FIR No.576 of 2018 for the offences under Sections 406 and 420 of IPC pending on the file of the first respondent and quash the same.

For Petitioners : No Appearance

For Respondent No.1 : Mr.S.Karthikeyan
Additional Public Prosecutor

For Respondent No.2 : Mr.A.V.Raja

ORDER

This Criminal Original Petition has been filed praying to quash the FIR registered in Crime No.576 of 2018 on the file of the first respondent police, as illegal.

2. None appeared on behalf of the petitioners even after printing the name of the counsel in the cause list.

3. Heard Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the first respondent police and Mr.A.V.Raja, learned counsel appearing for the second respondent.

4. In the impugned FIR, it was alleged that on 20.08.2014, the *de facto* complainant married one Chandru. Subsequent to that, she gave birth to one male child. In the meantime, on 03.10.2017 due to illness, the husband of the *de facto* complainant was died in Ramachandra Hospital, Chennai.

5. Subsequent to the death of said Chandru, the family members of the petitioners obtained a signature of the *de facto* complainant by saying the same is required for getting the death benefits of the deceased Chandru. The averments found in the FIR reveals the fact that all the family members of the deceased Chandru had obtained the said letter by making a false promise. Further, it was alleged that the petitioners herein obtained the death certificate of the deceased Chandru after giving a false information. Therefore, the said allegations levelled against the petitioners by the *de facto* complainant are all the factual aspects. In otherwise, the averments found in the FIR had clearly constituted cognizable offences under Sections 406 and 420 of IPC.

6. In the said circumstances, since the allegations are upon the factual aspects, it is necessary and useful to see the judgment of our Hon'ble Apex Court in the case of **SAU. KAMAL SHIVAJI POKARNEKAR vs. THE STATE OF MAHARASHTRA & ORS.** in **Criminal Appeal No. 255 of 2019**, wherein it was held as follows;

"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 *Sonu Gupta v. Deepak Gupta and Ors.*

2015 (3) SCC 424. disclosed, there would be no justification for the High Court to interfere.

6. Defences that may be available, or facts/aspects which when established during the trial, may lead to acquittal, are not grounds for quashing the complaint at the threshold. At that stage, the only question relevant is whether the averments in the complaint spell out the ingredients of a criminal offence or not."

7. Therefore, applying the ratio laid down in the above referred judgment, here it is a case, the truthfulness of the allegation has to be decided only after completing the investigation by the Investigating Officer. In otherwise, the averments found in the petition filed by the petitioners did not indicate any abuse of process of law committed by the first respondent police.

8. Accordingly, this Criminal Original Petition is dismissed.

-Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar

sri

To

1.The Inspector of Police,
Poonamallee Police Station,
Chennai.

2.The Public Prosecutor,
High Court, Madras.

सत्यमेव जयते

WEB COPY

Cr1.O.P.No.8881 of 2019

LN (CO)
UM (14.12.2020)