IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.12956 of 2020
and CRL.M.P.No.5056 of 2020

S.Nanda Kumar ... Petitioner

Vs.

1. The State represented by,
   The Inspector of Police,
   Team-20, EDF-III,
   Central Crime Branch,
   Chennai-600 007.

2. G.Thulasimani ... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to quash the FIR in Crime No.197 of 2019 on the file of the first respondent.

For Petitioner : Mr.Kamalakkannan
for Mr.K.Jayasudha

For Respondents: Mr.S.Karthikeyan [R1]
Additional Public Prosecutor

O R D E R

This petition has been filed to quash the F.I.R. in Crime No.197 of 2019 registered by the 1st respondent police for offences under Sections 406, 420 and 120B of IPC, as against the petitioner.

2. The learned Counsel appearing for the petitioner would submit that the very reading of the FIR, no allegations are made out to attract the offences punishable under Sections 406, 420 and 120B of IPC as against the petitioner. The entire amount which was alleged to have received by the petitioner has been returned to the defacto complainant. He would further submit that the petitioner is an innocent person and he has not

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

committed any offence as alleged by the prosecution. Without any base, the 1st respondent police registered a case in Crime No.197 of 2019 for the offence under Sections 406, 420 and 120B of IPC, as against the petitioner. 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.Kamalakkannan, learned counsel appearing for the petitioner and Mr.S.Karthikeyan, 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 petitioner 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

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

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. Accordingly, this Criminal Original Petition stands dismissed. However, considering the above submissions, the petitioner is directed to produce all the relevant documents and materials before the 1st respondent and on receipt of the same, the 1st respondent is directed to conduct the detailed investigation and find out the real aggressor in the crime No.197 of 2019 including the complainant and file a file a final report within a period of Twelve Weeks from the date of receipt of copy of this Order,

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

before the jurisdiction Magistrate, if not already filed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Inspector of Police,
   Team-20, EDF-III,
   Central Crime Branch,
   Chennai-600 007.

2. The Public Prosecutor,
   High Court, Madras.

+1cc to M/s.K.Jayasudha, Advocate, Sr.No.27984

CRL.O.P.No.12956 of 2020
and
CRL.M.P.No.5056 of 2020

sr (co)
rr ii (28/09/2020)

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/