

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.NO.15435 OF 2020

AND

CRL.M.P.NO.5882 OF 2020

1.P.Barat Kumar
2.P.Sampurnam
3.P.Naresh Kumar
4.N.Eswari

... Petitioners/Accused

Vs

1.The State Represented by
The Inspector of Police,
All Women Police Station,
Tindivanam, Villupuram District.
(Crime No.90 of 2020)

.... 1st Respondent/Complainant

2.Kavitha

.... 2nd Respondent/Defacto
Complainant

Prayer: Criminal Original Petition filed under Section 482
Cr.P.C. to call for the records pertaining to the FIR in Crime
No.10 of 2020 on the file of All Women Police Station,
Tindivanam and quash the same.

For Petitioner : Mr.P.Dinesh Kumar
For Respondent 1 : Mr.S.Karthikeyan,
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to call
for the records pertaining to the FIR in Crime No.10 of 2020 on
the file of All Women Police Station, Tindivanam and quash the
same.

2.Heard the learned counsel for the petitioner and the
learned Additional Public Prosecutor for the first respondent.

3.The petitioners are arrayed as accused persons in Crime
No.10 of 2020 for the offences punishable under Sections 498(b),
354, 506(1), 420 and 406 of IPC by the first respondent police.

4.The learned counsel for the petitioners submitted that the first respondent police without proper investigation filed a charge sheet as against these petitioners in Crime No.10 of 2020, on the file of the first respondent police. He further submitted that there are sufficient materials to show that the petitioners did not commit any offence as alleged by the prosecution. Hence, he prays to quash the proceedings in Crime No.10 of 2020.

5.It is relevant to extract the following observations made by the Hon'ble Supreme Court in the case of Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors., in Crl.A.No.255 of 2019 dated 12.02.2019, with regard to quashing of the criminal proceedings.

"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."

6. In the case on hand, the points raised by the petitioners are question of facts, which are to be raised only before the first respondent police. Therefore, this Court does not find any merits to quash the proceedings in Crime No.10 of 2020. The first respondent police is directed to complete the trial within a period twelve weeks from the date of receipt of copy of this order.

7. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
All Women Police Station,
Tindivanam, Villupuram District.
2. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.15435 of 2020
and Crl.M.P.No.5882 of 2020

SV(CO)
CS/02/12/2020