

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.15265 of 2020
and Crl.M.P.No.5809 of 2020

1.A.Nagarajan

2.N.Nagarjuna

... Petitioners 1 & 2/
Accused 1 & 2

Vs.

1.The Inspector of Police
Shevapet
Salem-636 002.

...1st Respondent/Complainant

2.B.Manoharan

...2nd Respondent/
defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the record FIR in Crime No.887 of 2020 on the file of the 1st respondent police and quash the same.

For Petitioners : Mr.C.Kanagaraju
For Respondents : Mr.S.Karthikeyan
Additional Public Prosecutor for R1

O R D E R

The Criminal Original Petition has been filed to call for the record FIR in Crime No.887 of 2020 on the file of the 1st respondent police and quash the same.

2.The learned Counsel appearing for the petitioners would submit that the petitioners are innocent person and they have not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.887 of 2020 for the offences under Sections 294 (b), 323, 324 and 506 (2) of IPC, as against the petitioners. He would further submit that for the very same occurrence, the petitioners also got grievous injury and as such they lodged a complaint and the same was registered in Crime No.888 of 2020 for the offence

under Sections 147, 148, 294(b), 323, 324 and 506 (2) of IPC as against the 2nd respondent herein and also others. 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 MrC.Kanagaraju, learned counsel appearing for the petitioners 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 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, now for the very same occurrence there are two FIR's have been registered by the 1st respondent and as such the 1st respondent police is directed to follow the procedure laid down in the Police Standing Order, Section 588 A and find out the real aggressor of the occurrence and file the final report within a period of 12 weeks from the date of receipt of a copy of this order before the jurisdiction Magistrate, if not already filed. Accordingly, this Criminal

Original Petition stands dismissed. However, it is made clear that both the parties are always at liberty to settle the matter amicably between themselves. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

jer

To

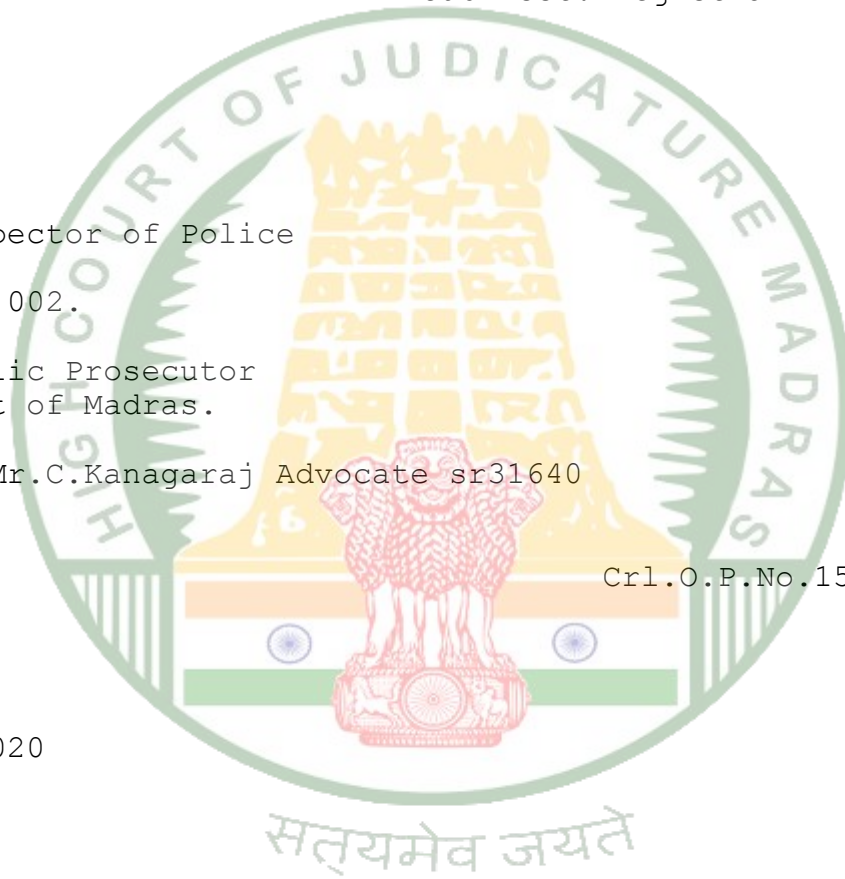
1.The Inspector of Police
Shevaped
Salem-636 002.

2.The Public Prosecutor
High Court of Madras.

+1 cc to Mr.C.Kanagaraj Advocate sr31640

Crl.O.P.No.15265 of 2020

pvs (co)
aa19/11/2020



WEB COPY