

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

CrI.O.P.No.16859 of 2019
and CrI.M.P.No.6496 of 2019

Arivazhagan ... Petitioner/Accused

Vs

1. The State rep. by
The Inspector of Police,
H3, Tondiarpet Police Station,
Tondiarpet,
Chennai-600 081.

2. Senthilnathan
S/o. Thangaraj.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records and quash the entire criminal proceedings pending in Cr.No.190 of 2019 against the petitioner on the file of the respondent police.

For Petitioner : No appearance

For Respondents

For R1 : Mr.S.Karthikeyan
Additional Public Prosecutor

For R2 : No appearance

ORDER

This Criminal Original Petition has been filed praying to quash the FIR registered in Crime No.190 of 2019 on the file of the H3 Tondiarpet Police Station, Chennai.

2. Heard Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the first respondent Police. Even after showing the name of the petitioner in the cause list, nobody is appeared on the side of the petitioner.

3. First of all, on going through the averments made in the FIR which registered in Crime No.190 of 2019, the defacto complainant/second respondent made allegations against the petitioner as the petitioner by showing knife and using abusing words robbed an amount of Rs.2,700/- from the defacto complainant's shirt pocket. Further alleged that the petitioner by showing knife threatened the public who were all present at the place of occurrence. Therefore, the said averments stated by the second respondent constituted a prima facie case for the offences under Sections 341, 294(b), 397 and 506(2) of IPC. Further the truthfulness of the allegation has to be decided only during the elaborate investigation by the Investigating Officer. More than that the entire allegations are based on factual aspects.

4. 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."

5. In applying the ratio laid down in the above referred judgment, here it is a case, the averments found in the FIR clearly constitute the offences under Sections 341, 294(b), 397 and 506(2) of IPC. Therefore, quashing of FIR is unnecessary in this petition. Therefore, the prayer sought out by the petitioner cannot be granted at this stage.

6. Accordingly, this Criminal Original Petition is dismissed. However, the respondent police is directed to complete the investigation and file final report within a period of three months from the date of receipt of copy of this Order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Inspector of Police,
H3, Tondiarpet Police Station,
Tondiarpet,
Chennai-600 081.
2. The Public Prosecutor,
Additional Public Prosecutor,
Chennai. - 104.

सत्यमेव जयते

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