

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.3592 of 2017

and

Crl M.P.No.2598 of 2017

1. S.Rajamani
 2. Devi
- Petitioners / Accused

Vs

1. State represented by
The Inspector of Police
Ponnur Police Station
Thiruvannamalai District.1st Respondent/Complainant
2. Ramasamy Respondents/ Defacto
Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in Crime No.3 of 2017 on the file of Inspector of Police, Ponnur Police Station, Thiruvannamalai District and quash the same as illegal.

For Petitioner : M/s.R.Sankarasubbu

For Respondent-1 : Mr.K.Prabakar
Additional Public Prosecutor

For Respondent-2 : M/s.N.Selvaraju

ORDER

This Criminal Original Petition has been filed seeking to quash the Crime No.3 of 2017 on the file of Inspector of Police, Ponnur Police Station, Thiruvannamalai District.

2. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent persons and the entire transaction is borrowing money, which could be agitated before the Civil Court and Prima facie no ingredients of Section 420 of IPC is made out. Hence he prayed to quash the crime.

3. The learned Additional Public Prosecutor would submit that now the First Information Report has been transferred from the file of the respondent to the file of the District Crime Branch, Thiruvannamalai and assigned new Crime No.10 of 2018 and the investigation is almost about to complete.

4. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor.

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.

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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 and also considering the facts and circumstances of the case, this Court is not inclined to quash the First Information Report. Accordingly, this Criminal Original Petition stands dismissed. However, considering that the crime is of the year 2017, the Inspector of Police, District Crime Branch, Thiruvannamalai, is directed to complete the investigation in Crime No.10 of 2018 (earlier Crime No.3 of 2017 on the file of Inspector of Police, Ponnur Police Station, Thiruvannamalai District) and file a final report within a period of 12 (twelve) weeks from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Inspector of Police,
District Crime Branch,
Thiruvannamalai.
2. The Inspector of Police
Ponnur Police Station
Thiruvannamalai District.
3. The Public Prosecutor,
High Court, Madras.

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Crl.O.P.No. 3592 of 2017
and
Crl M.P.No.2598 of 2017



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