IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.23817 of 2017
and
Crl.M.P.No.13795 of 2017

1.V.Santhosh
2.Senthamil
3.Anitha ... Petitioners

Vs

The State
Rep. by the Inspector of Police
R-3 Ashok Nagar Police Station,
Chennai. ... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in FIR in Crime No.2988 of 2014 pending on the file of the respondent police and quash the same insofar as the petitioner's are concerned.

For Petitioners : Mr.R.Muniyapparaj

For Respondent : Mr.M.Mohammed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed to quash the F.I.R. in Crime No.2988 of 2014 registered by the respondent police for offences under Section 174 Crpc @ 306 of IPC, as against the petitioners.

2. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. Without any base, the respondent police registered a case in Crime No.2988 of 2014 for the offences under Section 174 Crpc @ 306 of IPC, as against the petitioners. 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.R.Muniyapparaj, learned counsel appearing for the petitioners and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the respondent.

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5. It is seen from the First Information Report that there are specific allegations as against the petitioners 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

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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, this Court is not inclined to quash the First Information Report. Accordingly, this Criminal Original Petition stands dismissed. However, considering the crime is of the year 2014, the respondent is directed to complete the investigation in Crime No.2988 of 2014 and file a final report within a period of eight weeks from the date of receipt of copy of this Order, before the jurisdictional Magistrate, if not already filed. The petitioners are at liberty to challenge the final report. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

1.The Inspector of Police
R-3 Ashok Nagar Police Station
Chennai.

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2.The Public Prosecutor,
High Court of Madras,
Madras.

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HD(CO)
GMY(09/09/2020)

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