



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No. 26602 of 2019
and Crl.M.P.No.14223 of 2019

1. D.Krishnan
2. Tmt.K.Shyamala
3. Kalaiselvi
4. K.Hema
5. K.Keerthi

... Petitioners

Vs.

1. The State represented by
Station House Officer,
Dhanvanthiri Nagar Police Station,
Gorimedu, Priyardarshini Nagar
Puducherry - 605 006.
(Cr.No.148/2019).

2. G.Kalaiarasan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to quash the FIR in Crime No.148 of 2019 on the file of the first respondent.

For Petitioner : Mr.J.Prakasam

For Respondents

For R1 : Mr.V.Balamurugavel
Additional Public
Prosecutor(Puducherry)

For R2 : Mr.D.Baskar

O R D E R

This petition has been filed to quash the F.I.R. in Crime No.148 of 2019 registered by the first respondent police for offences under Sections 417, 420, 494, 495, 294(b), 506(i) r/w 149 IPC, as against the petitioners.

2. The learned Counsel appearing for the petitioners would submit that the petitions are innocent persons 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.148 of 2019 for the offences under Sections 417, 420, 494, 495, 294(b), 506(i) r/w 149 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.J.Prakasam, learned counsel appearing for the petitioners, Mr.V.Balamurugavel, learned Additional Public Prosecutor (Puducherry) appearing for the first respondent and Mr.D.Baskar, learned counsel appearing for the 2nd respondent.

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



To

1. The Station House Officer,
Dhanvanthiri Nagar Police Station,
Gorimedu, Priyardarshini Nagar
Puducherry - 605 006.

2. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.D.Baskar, Advocate, S.R.No.18559
+1cc to M/s.J. Prakasam, Advocate, S.R.No.19010
+1cc to the Government Pleader, S.R.No.18319

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RSV(CO)
EU 9.7.2020