

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Cr1.O.P.No.32086 of 2019

S.Suresh Kumar,
S/o.V.Sekar,
Avvai Nagar,
K.V.Kuppam Village,
Katpadi Taluk,
Vellore District.

...Petitioner/Accused-2

Vs

1. The State rep. by
The Inspector of Police,
K.V.Kuppam Police Station,
Vellore District.
(Crime No.144 of 2017)

2. Nandakumar @ Nandagopal,
S/o.Loganathan,
Bus Stand, K.V.Kuppam,
Katpadi Taluk,
Vellore District.

...Respondents/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records and quash the FIR in Crime No.144 of 2017 on the file of the first 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 seeking relief to quash the FIR in Crime No.144 of 2017 on the file of

the first respondent police, as illegal.

2. Even after showing the name of the petitioner in the cause list, none appeared on behalf of the petitioner. Heard Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the first respondent.

3. It is a case filed by the petitioner to quash the FIR registered in Crime No.144 of 2017. On going through the averments narrated by the defacto complainant, it seems that during the time of occurrence the petitioner and others assembled together with deadly weapons and by using abusive words damaged the petitioner's shop. The said averments found in the FIR are clearly constitute a prima facie case for the offences punishable under Sections 147, 148, 294(b), 506(2) of IPC and Section 3 of Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992.

4. Further all the offences registered as against the petitioner are cognizable in nature. It is a settled position of law that if the issue related to the FIR is factual in nature, the truthfulness of the same has to be decided either during the time of investigation or during the time of trial. In other words, it cannot be said that the registration of FIR itself is abusive of process of law.

5. At this juncture, 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."

6. Therefore, applying the ratio laid down in the above judgment, here also, since the averments found in the FIR are constitute the prima facie offence which cognizable in nature, it needs elaborate enquiry. I am of the considered opinion that the petition filed by the petitioner is devoid of merits.

7. Accordingly, this Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Inspector of Police,
K.V.Kuppam Police Station,
Vellore District.

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

सत्यमेव जयते

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CO(GJ)
BDL/07/01/2021