

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 17.07.2020
CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.34281 of 2019
and
Crl.M.P.No.18984 of 2019

Kiran (M/34 Years)
S/o.A.Mangapatty,
18/18, Alamar Street,
M.P.S.Salai, Thiruttani. ... Petitioner

Vs.

1. The Station House Officer,
Thiruttani Police Station,
Thiruvallur District.
2. Shyam M/A 25 Years,
S/o.Raja,
161/54, Akkaiya Naidu Street,
Thiruttani,
Thiruvallur District.
3. Mhoammed Yasin Sharif Kalesha (M/22 Years)
S/o.Kalesha,
Door No.4, Akkaiah Naidu Street,
Tiruttani, Thiruvallur District,
Tamil Nadu - 631 209.
4. Sha Nawaz (M/26 Years)
S/o.H.Rahim Basha,
No.10, Akkaiah Naidu Street,
Telephone Office Back Side,
Tiruttani.
[R3 and R4 are impleaded as per order in Crl.M.P.No.294 of
2020 in
Crl.O.P.No.34281 of 2019 dated 10.01.2020].
... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in Crime No.757 of 2019 and dated 24.11.2019, on the file of the 1st respondent and quash the same illegal and in competent against the petitioner.

For Petitioner : M/s.R.Poornima
For Respondents : Mr.S.Karthikeyan
Additional Public Prosecutor for R1
: Mr.L.Arivalagan for R2 to R4

O R D E R

This petition has been filed to quash the F.I.R. in Crime No.757 of 2019 registered by the first respondent police for offences under Sections 147, 341, 294(b), 323, 506(2) 120 B of IPC, as against the petitioner.

2. The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Without any base, the third respondent police registered a case in Crime No.757 of 2019 for the offences under Sections 147, 341, 294(b), 323, 506(2) 120 B of IPC, as against the petitioner. Hence he prayed to quash the same.

3. The learned Additional Public Prosecutor would submit that the petitioner is a notorious criminal and used to threatened the de-facto complainant and directed the de-facto complainant to withdraw the complaint filed against him. He would further submit that in Crime No.767 of 2019, the first respondent completed the investigation and also file a final report before the concerned Court as early as on 17.04.2019 and it is pending for taken cognizance on the file of the learned Judicial Magistrate, Tiruttani.

4. Heard M/s.R.Poornima, learned counsel appearing for the petitioner, Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the first respondent and Mr.L.Arivalagan, learned counsel appearing for the second to fourth respondents.

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 CrI.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.

.....

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, the learned Judicial Magistrate, Tiruttani is directed to take cognizance of the same within a period of four weeks from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Station House Officer,
Thiruttani Police Station,
Thiruvallur District.

2.The Judicial Magistrate,Tiruttani.

3. The Public Prosecutor,
High Court of Madras.

A.SK(09/09/2020)

Cr1.O.P.No.34281 of 2019

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