



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.11.2020

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD)No.22350 of 2016

and Crl.M.P.(MD) No. 11631 of 2016

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...Petitioner /Sole accused

-Vs-

1.The State,

Rep. by the Inspector of Police,
Kalakkad Police Station,
Tirunelveli District.
(Crime No.145 of 2016)

...R-1/Complainant

2. C. Subbammal

...R-2/Defacto complainant

Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the records pursuant to the FIR in Crime No.145 of 2016 pending on the file of the Inspector of Police, Kalakkad Police Station, Tirunelveli District and quash the same.

For Petitioner : Mr.G. Thalaimutharasu

For R-1 : Mr.R.Erottuchamy
Government Advocate (Crl.Side)

For R-2 : No appearance

O R D E R

This petition has been filed to quash the FIR in Crime No.145 of 2016 pending on the file of the Inspector of Police, Kalakkad Police Station, Tirunelveli District, for the offences punishable under Sections 294(b) & 506(ii) of IPC., and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, 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 first respondent police registered a case in Crime No.145 of 2016 for the offences under Sections 294(b) & 506(ii) of IPC., and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, as against the petitioner. Hence he prayed to quash the same.

3.The learned Government Advocate (criminal side) would submit



that the investigation is almost completed and the respondent police have only to file final report.

4. Heard Mr.G. Thalaimutharasu, learned counsel appearing for the petitioner and Mr.R. Erottuchamy, learned Government Advocate (crl. Side) appearing for the respondent police.

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



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 2016, the respondent police is directed to complete the investigation in Crime No.145 of 2016 and file a final report within a period of four months from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed. Consequently, connected miscellaneous petition is closed.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1. The Inspector of Police,
Kalakkad Police Station,
Tirunelveli District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.O.P. (MD) No.22350 of 2016
02.11.2020

KMV (CO)

AP(19/11/2020) 4P 3C