



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 24.11.2020
CORAM:

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

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CRL.O.P.Nos.4459 amd 18688 of 2016
and Crl.MP.No.2216 of 2016

1.Pakkir Mydeen
2.Mohamed Kadar Mydeen
3. Syed Mohamed

... Petitioners in
Crl.O.P(MD).No.4459 of 2016/Accused 1 to 3

Mohamed Iqbal

... Petitioner in
Crl.O.P(MD).No.18688 of 2016

Vs.

In CRL OP(MD).4459 of 2016:

1.The State rep., by
The Inspector of Police,
Alwarkurichi Police Station,
Alwarkurichi,
Tirunelveli District.

... Respondent/Complainant

2. Mohamed Iqbal

... Respondent/Defacto Complainant

In CRL OP(MD).18688 of 2016:

1. The State of Tamil Nadu,
rep., by the Superintendent of Police,
Tirunelveli District.

2. The Inspector of Police,
Alwarkurichi Police Station,
Tirunelveli District.

...Respondents

Prayer in Crl.O.P(MD).No.4459 of 2016: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the First Information Report, dated 22.05.2012 in Crime No. 116 of 2012 on the file of the Inspector of Police, Alwarkurichi Police Station, Tirunelveli District and quash the same as illegal and devoid of merits.

Prayer in Crl.O.P(MD).No.18688 of 2016:Criminal Original Petition filed under Section 482 of Cr.P.C. praying to transfer the investigation of the case in Crime No. 99 of 2016 on the file of the 2nd Respondent to any other impartial investigation agency.



In Crl.O.P(MD).No.4459 of 2016

For Petitioners : Mr.S.Palani Velayutham
For Respondents : Mr.K.Anbarasan
For R1 : Government Advocate (crl.side)
For R2 : Mr.G.Kannan

In Crl.O.P(MD).No.18688 of 2016

For Petitioner : Mr.G.Karnan
For Respondents : Mr.K.Anbarasan
Government Advocate (crl.side)

COMMON ORDER

Crl.O.P(MD).No.4459 of 2016 has been filed to quash the F.I.R. in Crime No.116 of 2012 registered by the first respondent police for offences under Sections 465, 468 and 420 of IPC, as against the petitioners.

2. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent 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.116 of 2012 for the offences under Sections 465, 468 and 420 of IPC, as against the petitioners. Hence he prayed to quash the same.

3. The learned Government Advocate (Crl.side) would submit that the investigation is almost completed and the respondent police have only to file final report.

4. Heard Mr.S.Palani Velayutham, learned counsel appearing for the petitioner and Mr.K.Anbarasan, learned Government Advocate (crl.side) appearing for the first 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:-



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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 2012, the first respondent is directed to complete the investigation in Crime No.116 of 2012 and file a final report within a period of eight weeks from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed. Consequently, connected miscellaneous petition is closed.

8. Insofar as Crl.O.P(MD).No.18688 of 2016 is concerned, which is filed to transfer the investigation of the case in Crime No.99 of 2016 on the file of the Inspector of Polie, Alwarkurichi Police Station, in view of the order passed in Crl.O.P(MD).No.4459 of 2016, the second respondent is directed to complete the investigation and file a final report within a period of eight weeks from the date of receipt of a copy of this order. At this juncture, the change of investigation would affect entire investigation to be done by the second respondent. Therefore, transfer of investigation cannot be considered after a period of three years. Accordingly, Crl.O.P(MD).No.18688 of 2016 is also dismissed.

Sd/-

Assistant Registrar(P & A)

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/ /2020

Sub Assistant Registrar(CS)

rmk

To

1. The Superintendent of Police, Tirunelveli District.

2.The Inspector of Police,
Alwarkurichi Police Station, Alwarkurichi,
Tirunelveli District.

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

CRL.O.P.Nos.4459 amd 18688 of 2016

24.11.2020

MR (CO)

TR(17.12.2020) 4P 4C