



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No. 7746 of 2021  
and Crl.MP.No.5107 of 2021

Makendrakumar  
S/o.Jagathdhaji,  
Mariyamman Kovil Street,  
Shevapet,  
Salem - 636 002.

... Petitioner

Vs.

The State represented by  
The Inspector of Police,  
Annadanapatty Police Station,  
Salem.  
Cr.No.389 of 2018.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for records relating tot he First Information Report in Crime No.389 of 2018 on the file of the Respondent police and to quash the same.

For Petitioner : Mr.R.Nandhakumar

For Respondent : Mr.A.Damodaran  
Government Advocate (Crl.Side)

O R D E R

This petition has been filed to quash the F.I.R. in Crime No.389 of 2018 registered by the first respondent police for offences under Section 77 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and Sections 6 & 24 of the Cigarettes and other Tobacco Products Act, 2003, as against the petitioner.

2. The case of the prosecution the on 20.06.2018, while the respondent police were patrolling, the petitioner and other accused were found in possession of banned tobacco products. Hence they registered the case in Crime No.389 of 2018 as against the petitioner and four others.



3. 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 respondent police registered a case in Crime No.389 of 2018 for the offences under Section 77 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and Sections 6 & 24 of the Cigarettes and other Tobacco Products Act, 2003, as against the petitioner. Hence he prayed to quash the same.

4. The learned Additional Public Prosecutor would submit that the now the investigation in Crime No.389 of 2018 on the file of the respondent police has been transferred to the Inspector of Police, NIBCID, Chennai for further investigation.

5. Heard Mr.R.Nandhakumar, learned counsel appearing for the petitioner and Mr.A.Damodaran, learned Government Advocate (Crl.Side) appearing for the respondent.

6. 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.

7. 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





Police, NIBCID, Chennai is directed to complete the investigation in Crime No.389 of 2018 and file a final report within a period of twelve weeks from the date of receipt of a copy of this Order, before the jurisdiction Magistrate, if not already filed. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rts  
To

1. The Inspector of Police,  
Annadanapatty Police Station,  
Salem.
2. The Inspector of Police,  
NIBCID, Chennai
3. The Public Prosecutor,  
High Court, Madras.

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and CrI.MP.No.5107 of 2021

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srg 16/07/2021