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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2021

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Crl.O.P.No. 27858 of 2017
and Crl.M.P.No. 15858 of 2017

Ravichandran

...Petitioner/A2

Versus

1.The Inspector of Police,
Perundurai Police Station,
Perundurai, Erode District.
(Cr.No. 679 of 2017)

...1st Respondent/Complainant

2.Duraisamy

...2nd Respondent/Defacto Complainant

Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the case in Crime No. 679 of 2017 pending investigation on the file of the 1st respondent and quash the same.

For Petitioner : Mr.K.G. Senthil Kumar

For R1 : Mr. A. Gokulakrishnan
Counsel for Govt. of Tamil Nadu
(Criminal Side)

For R2 : Mrs.A. Indhumathi

ORDER

This petition has been filed to quash the F.I.R. in Crime No.679 of 2017 registered by the first respondent police for an offences under Sections 120(B), 408 and 420 of IPC as against the petitioner.

2. The case of the petitioner is that the complaint was given by one M/s.Sri Karthiga Traders/de-facto complainant against the petitioner and other accused. The petitioner herein conspired with A1, collected money from various customers of the said M/s.Sri Karthiga Traders a sum of Rs.38,00,000/- swindled by way of cash and he has not repaid the trading amount for the



stocks taken by A1 from three shops. Based on the complaint given by the second respondent herein, the first respondent police registered a case in Crime No.679 of 2017 for offences under Sections 120(B), 408 and 420 of IPC on 21.11.2017. Hence the petitioner has come forward to quash the proceedings.

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 and he never worked under M/s.Sri Karthiga Traders. A2 was working in the said company and he collected money from various customers and deposited the same. This petitioner herein has not received any amount from the customers. Without any base, the first respondent police registered a case in Crime No.679 of 2017 for the offences under Sections 120(B), 408 and 420 of IPC as against the petitioner. Hence he prayed to quash the same.

4. The learned Government Advocate (Criminal Side) appearing for the 1st respondent submitted that the petitioner conspired with other accused and swindled of a sum of Rs.38,00,000/- from various customers and he has not repaid the trading amount for the stocks taken by A1 and investigation has been completed and the respondent police have only to file final report. He vehemently opposed for quashing the proceedings FIR in Crime No.679 of 2017.

5. Heard Mr.K.G.Senthil Kumar, learned counsel appearing for the petitioner and Mr.A.Gokulakrishnan, learned Government Advocate (Criminal Side) appearing for the first respondent and Mrs.A. Indhumathi, learned counsel appearing for the second respondent and perused the materials placed on record.

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 v. 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



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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



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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."

8. 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 2017, the first respondent is directed to complete the investigation in Crime No.679 of 2017 and file a final report within a period of two 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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msm

To

1. The Inspector of Police,
Perundurai Police Station, Perundurai,
Erode District. (Cr.No. 679 of 2017)

2. The Public Prosecutor,
High Court, Madras.

Copy To :

The Judicial Magistrate,
Perundurai.

CrI.O.P.No. 27858 of 2017
and CrI.M.P.No. 15858 of 2017

GPL(CO)
RGA(23/08/2021)