

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.NO.4121 OF 2020

AND

CRL.MP.NO.2376 OF 2020

Chandramoorthy

... Petitioner

Vs.

1. The State rep by
Inspector of Police,
CCB-1, Chennai.

2. Mumtaj Beevi

... Respondents

PRAYER:

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the entire records and quash the FIR in Crime No.526 of 2018 on the file of the Inspector of Police, CCB-1, Chennai.

For Petitioner : Mr.Vijay for M/s.Aruna Elango,
A.S.Aswin Prasanna

For Respondents: Mr.A.Gopinath
Government Advocate (Crl. Side)
for R1

O R D E R

This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C seeking orders to call for the records pertaining to Cr.No.526 of 2018 pending on the file of the first respondent and to quash the same.

2. The case of the prosecution is that the second respondent that she was the absolute owner of the property measuring to an extent of 3.75 acres and the value of the property was more than 25 crores in the year 2012-2013. The petitioner and others were interested in purchasing her property and had threatened her to part with her property. It is her

further case that, in order to discharge a registered mortgage on the property for Rs.2,00,000/-, the accused induced her to sell her property. It is further alleged that on 07.01.2013, the accused had forcefully taken the second respondent and her son to the office of the SRO, Virugambakkam and under the guise of registering an agreement of sale had executed sale deeds in their favour without paying the actual sale consideration. It is further alleged that only Rs.10 lakhs were paid to her by way of two cheques that she received no other money and that the accused have cheated her to the tune of Rs.24.90 crores. On 26.06.2013, she had lodged a complaint before the Commissioner of Police, Chennai and on 22.07.2013, she had lodged a complaint with the Inspector General, Registration and thereafter had again filed another complaint with the Commissioner of Police, Chennai on 28.10.2017, since no action was taken, a petition was filed before this Court in Crl.OP.No.24069 of 2017 seeking for a direction to register the FIR.

3. The learned Government Advocate (Crl.Side) submitted that investigation was almost completed and so far as filing of file final report is concerned in view of the interim order passed by this Court vide order dated 24.02.2020, the first respondent cannot able to file final report.

4. A perusal of an FIR reveals that there are specific allegations as against the petitioner and other accused persons. There are totally 8 accused in this case. The petitioners herein has arrayed as first accused.

5. Heard the learned counsel for the petitioner and learned Government Advocate (Crl.Side) for the first respondent police.

6. Considering the facts and circumstances of the case and the submissions made by both counsel, this Court finds no merits to quash the complaint lodged by the second respondent and this petition is liable to be dismissed.

7. In this regard, 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 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."

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 2018, the first respondent police is directed to complete the investigation in Crime No.526 of 2018 and file a final report within a period of twelve 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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Vv

To

1. The Inspector of Police,
CCB-1, Chennai.
2. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.4121 of 2020
and
Crl.MP.No.2376 of 2020

PM(CO)
PM/25/07/2022