



Crl.OP.No.14011 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.14011 of 2020

and

Crl.MP.No.5373 of 2020

1. Ponusamy
2. Pushpa
3. Sivakumar
4. Thyagarajan

... Petitioners

Vs.

1. The Sub Inspector of Police,
District Crime Branch,
Salem District.
2. The Block Development Officer,
Omalur, Salem District.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the FIR pending on the file of the first respondent in Cr.No.12 of 2019 dated 20.09.2020.



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For Petitioners : M/s.Karan and Uday

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

ORDER

This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C seeking orders to call for the records pertaining to Cr.No.12 of 2019 pending on the file of the first respondent and to quash the same.

2. The case of the prosecution is that the petitioners had created a sale deed with respect to Government Property (Pathway) for S.No.29/3 to the extent of 0.39 cents situated at Etttikuttapatti Village, Narayanapuram Panchayat Union, Omalur Circle, Salem District vide Doc.No.92 of 2019 before the District Munsif Omalur, Salem District and obtained an order of Injunction as against the second respondent from forming a road in S.No.29/3. Hence, the complaint has been lodged by the defacto complainant/2nd respondent as against the petitioners.

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



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4. It is seen from the FIR, there are specific allegations against the petitioner to attract the offences under Sections 465, 467, 468, 120B, 420, 341, 353 of IPC.

5. Considering the facts and circumstances of the case and the submissions made by both counsel, this Court is not inclined to quash the complaint lodged by the second respondent and this petition is liable to be dismissed.

6. 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.***, wherein, it has been held as under:-

"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



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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



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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



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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 2019, the respondent police is directed to complete the investigation in Crime No.12 of 2019 and file a final report within a period of twelve weeks from the date of receipt of copy of this Order, before the Jurisdictional Magistrate, if not already filed. Consequently, connected miscellaneous petition is closed.

14.06.2022

Internet: Yes

Index: Yes/No

Speaking/Non-speaking order

Vv



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To
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1. The Inspector of Police,
City Crime Branch,
Coimbatore District.
2. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

Vv

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