



Crl.OP.No.15940 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.15940 of 2020

and

Crl.MP.No.6101 of 2020

Ravie @ Kadukuthu Ravi

... Petitioner

Vs.

1.State

Rep. By the Inspector of Police,
J-8, Neelankarai Police Station,
Chennai – 600 115.

2. Suresh

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to crime No.1438 of 2016 on the file of the 1st respondent and quash the same as illegal, incompetent and abuse of process by the present criminal original petition.

For Petitioner	: Mr.R.Jayaprakash
For R1	: Mr.A.Gopinath
	Government Advocate (Crl. Side)



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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.1438 of 2016 pending on the file of the first respondent and to quash the same.

2. The petitioner has been arrayed as an accused in Cr.No.1438 of 2016 on the file of the first respondent police for the offences punishable under Sections 294(b), 307 and 506 (ii) of IPC, 1860 based on the complaint given by the second respondent.

3. The case of the prosecution is that on 17.08.2016 at 4.00 p.m., the second respondent was riding his auto to drop the passenger at Akkarai and returned towards Injambakkam, near Iskhan Kovil Road, ERC Junction, the petitioner who had walked on road side likely to hit the second respondent's auto. When the second respondent had parked his auto and looked back, the petitioner has spoken abusive language and also threatened him by saying that he will kill the second respondent



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right now and he took the knife and attacked the second respondent and also threatened him that if the second respondent had informed the incident to the police, he will kill him and ran away from the place. Hence, the complaint is lodged by the second respondent as against the petitioner.

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

5. The learned counsel for the petitioner submitted that the petitioner has not committed any such offence as alleged by the petitioner and he has been falsely implicated in this case. He further submits that this is the case of year 2016, even till today, no charge sheet is filed Hence, he prays to allow this petition.

6. The learned Government Advocate (CrI.Side) submitted that the petitioner is a habitual offender and he has several previous antecedent cases and also he is detained under Goondas Act vide



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No.BCDFGISSSV No.1188/16 dated 28.22.2016 and TPDA No.8698/2016 dated 01.12.2016. He further submits that investigation was almost completed.

7. 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.

8. 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 Pokarnekhar 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.

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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."

9. 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 2016, the respondent is directed to complete the investigation in Crime No.1438 of 2016 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.

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Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
Vv

To

1. The Inspector of Police,
J-8, Neelankarai Police Station,
Chennai – 600 115.
2. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

Vv

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