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Crl.O.P.No.17226 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.17226 of 2022

Shalini

...Petitioner

-Vs-

1.The State

represented by

The Inspector of Police,

Tambaram

2.Gnana Sathish

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in FIR in Crime No.42 of 2022 pending on the file of the Inspector of Police, Tambaram District, 1st respondent herein and quash the same.

For Petitioner : No appearance

For R1 : Mr.E.Raj Thilak

Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.42 of 2022 pending on the file of the Inspector of Police, Tambaram.



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2. The case of the prosecution is that the petitioner and the second respondent are neighbours and they are residing in the same Apartment.

Due to misunderstanding, there arose a fight between them and consequently, the second respondent was constrained to lodge a complaint in Crime No.42 of 2022 on the file of the Inspector of Police, Tambaram against the petitioner. Now, they have realised that there is no point in having the grudges against each other and thus, the second respondent decided to withdraw the complaint against the petitioner.

3. Though the learned counsel for the petitioner represented that there is a compromise between the petitioner and the second respondent. Even today, the petitioner failed to file any compromise memo before this Court. When the matter is taking up for hearing today i.e., 19.09.2022, there is no representation on behalf of the petitioner and the petitioner failed to file any compromise memo.

4. It is seen from the First Information Report that there are specific allegations as against the petitioner to attract the offence, 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.



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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.

6. 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.***, 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



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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."

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.

19.09.2022

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
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G.K.ILANTHIRAIYAN. J,



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To
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- 1.The Inspector of Police,
Tambaram
- 2.The Public Prosecutor
Madras High Court.

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