



CrI.OP.No.15675 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2022

CORAM:

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

CrI.O.P.No.15675 of 2020

and

CrI.MP.No.6023 of 2020

S.V.Dhanasekar

... Petitioner

Vs.

1.State rep by
Inspector of Police,
N-1, Royapuram Police Station,
Chennai District.
(Cr.No.801 of 2020)

2. Vinothini

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the FIR in Crime No.801 of 2020 dated 23.05.2020 pending investigation on the file of the first respondent police and quash the FIR in Crime No.801 of 2020 dated 23.05.2020 registered against the petitioner for an alleged offence under Section 451 and 323 of IPC.



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For Petitioner : Mr.R.Y.George Williams
For Respondents : Mr.A.Gopinath
Government Advocate (CrI. Side)
for R1
: M.Himavanth for R2

ORDER

This petition has been filed to quash the F.I.R. in Crime No.801 of 2020 registered by the first respondent police for offences under Sections 451 and 323 of IPC, as against the petitioner.

2. The case of the prosecution is that on 22.05.2020, the defacto complainant's brother's father-in-law namely, the petitioner herein, came to her house and made a wordy quarrel and asked her brother to stay in his house permanently or otherwise hand over his grandson to him. When the same was refused by the defacto complainant/second respondent, the petitioner has pulled her down, due to which, she got aborted when she was pregnant.

3.The learned counsel for the petitioner submitted that after two



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days of occurrence, the complaint has been lodged. Infact, thereafter, the defacto complainant and her husband entered into a compromise and they got separated, infact, the defacto complainant also delivered a baby. Therefore, no such occurrence took place to abort the child.

4. A perusal of the FIR reveals that there are very serious allegations as against the petitioner that the petitioner had pulled her down and due to which she got aborted. Though she delivered a baby, the mental agony suffered by her and also the occurrence had taken place, as alleged by the second respondent herein.

5. That apart, the learned Government Advocate (Crl.Side) has perused the final report that the petitioner has been charged for the alleged offences punishable under Sections 423 and 321 of IPC. Though the final report is yet to be filed by the first respondent and the investigation is not completed.

6. Considering the facts and circumstances of the case and the submissions made by both counsel, this Court finds no merit to quash the



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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 ***CrI.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 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.



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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



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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 made out in the complaint, the criminal proceeding shall not be



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