

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.16765 of 2020
and
Crl.M.P.No.6477 of 2020

Natarajan

... Petitioner

Vs.

1. The State rep. by
The Inspector of Police,
Chidambaram Town Police Station,
Chidambaram
(Crime No.289 of 2019)

2. S.Manivel

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records pertaining to the FIR in Crime No.289 of 2019 pending on the file of 1st respondent police and to quash the same.

For Petitioner : Mr.S.Sathish Rajan

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

For R2 : Mr.S.Sithirai Anandam

O R D E R

This petition has been filed to quash the F.I.R. in Crime No.289 of 2019 pending on the file of 1st respondent police for offences under Sections 465, 467, 468, 471, 294(b) and 506(1) of IPC, as against the petitioner.

2. On the complaint lodged by the 2nd respondent/defacto complainant, the 1st respondent did not take any action. Hence, the 2nd respondent was constrained to file an application under Section 156(3) of Cr.P.C. before the learned Judicial Magistrate

No.II, Chidambaram seeking direction to register his complaint. The learned Judicial Magistrate, Chidambaram directed the 1st respondent to register an FIR and investigate the case.

3. The case of the prosecution is that the 2nd respondent lodged a complaint alleging that his father one Mr.Selvaraj, who is the brother of the petitioner herein, was running a hotel in the name and style of "Velu Cafe" at Shop Nos.1, 2 and 8 belonging to Chidambaram Municipality, which is situated opposite to Chidambaram Bus stand. After demise of the 2nd respondent's father, the petitioner herein had forged the signature of the 2nd respondent's father as if he granted permission to transfer the license in the name of the petitioner in the Municipality records in respect of the above shops. It is further alleged that the 2nd respondent is running the shops after the demise of his father and the petitioner is looking after the business, since the 2nd respondent was working out of place.

4. The learned Government Advocate (Crl.Side) appearing for the first respondent submitted that the investigation is almost completed and yet to file the final report.

5. Heard Mr.S.Sathish Rajan, learned counsel appearing for the petitioner and Mr.A.Gopinath, learned Government Advocate (Crl.Side) appearing for the first respondent.

6. On a perusal of the records, it reveals that the shops were allotted in favour of the 2nd respondent's father one Selvaraj. After his demise, the license also transferred in the name of the 2nd respondent. In fact, it is also challenged by the petitioner in a writ petition in W.P.No.15219 of 2019 and the same is pending before this Court. However, the 2nd respondent being the legal heir of the deceased, the Chidambaram Municipality transferred the license in favour of the 2nd respondent. Therefore, the petitioner forged the signature of the 2nd respondent's father and fabricated the No Objection Certificate as if the Chidambaram Municipality may grant license in favour of the petitioner herein.

7. Though the petitioner filed a suit in O.S.No.64 of 2019 on the file of the District Munsif Court, Chidambaram for permanent injunction restraining the 2nd respondent from interfering with the business of the petitioner, the fabrication of documents and forging the signature attract offences, which has to be investigated in depth. Therefore, it cannot be construed as a civil dispute between the petitioner and the 2nd respondent.

8. It is seen from the First Information Report that there

are specific allegations as against the petitioner to attract the offences under Sections 465, 467, 468, 471, 294(b) and 506 (1) of IPC. Further, the FIR is not an encyclopedia and it need not contain all facts and it cannot be quashed in the threshold. This Court finds that the FIR discloses prima facie commission of cognizable offence and as such this Court cannot interfere with the investigation.

9. 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 Cosp/anu 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."

10. 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 1st respondent is directed to complete the investigation in Crime No.289 of 2019 and file a final report within a period of eight weeks from the date of receipt of a copy of this order, before the jurisdiction Magistrate. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sp/anu

To

1. The Inspector of Police,
Chidambaram Town Police Station,
Chidambaram.

2. The Public Prosecutor,
Madras High Court.

+1cc to Mr.S.Sithirai Anandam, Advocate, S.R.No.37298

Cr1.O.P.No.16765 of 2020

GPL(CO)
UMA(12/07/2022)