

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.17062 of 2020
and
Crl.M.P.No.6611 of 2020

Subha Divyan

... Petitioner

Vs.

1. State rep by
The Inspector of Police,
Kanchi Taluk Police Station,
Kancheepuram.

2. M.Sugumaran

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records of the impugned First Information Report in Crime No.398 of 2019 on the file of 1st respondent herein and quash the same.

For Petitioner : Mr.P.Dinesh Kumar

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

Fro R2 : Mr.V.Shivalingam

O R D E R

This petition has been filed to quash the F.I.R. in Crime No.398 of 2019 on the file of 1st respondent herein as against the petitioner.

2. The case of the prosecution is that the 2nd respondent has purchased a 'Bajaj Caliber' Two wheeler Motor Cycle bearing Registration No.TN-21-F-1922 from the petitioner herein. It is alleged that the 2nd respondent met with an accident on 08.09.2007 and he sustained injuries, due to which, a case in Crime No.453 of 2007 has been registered. Subsequently, the vehicle was taken to the petitioner's workshop and the 2nd

respondent also paid a sum of Rs.19,428/- for repair charges. While so, the 2nd respondent lost his Registration Certificate and applied for duplicate RC book before the Regional Transport Officer (RTO), Kancheepuram vide application dated 30.05.2018. However, the RTO has returned the application by proceedings dated 21.06.2018 stating that there is a discrepancy in the Chassis number of the two wheeler. It is also stated in the rejection order that no prior permission for replacement of chassis was not obtained in terms of Rule 102 of Tamil Nadu Motor Vehicle Rules, 1989. Hence, the 2nd respondent has lodged a complaint against the petitioner.

3. The learned counsel for the petitioner submitted that insofar as the allegation of non-compliance of Rule 102 of Tamil Nadu Motor Vehicle Rules is concerned, it contemplates only the owner of the vehicle to seek prior approval from the concerned Authority prior to the proposed alteration i.e., change of chassis. Therefore, it cannot be fastened either upon manufacturer to supply the new chassis or dealer/service centre, which fitted the new chassis. He further submitted that insofar as punching of old number on the new chassis in light with circular instructions, dated 13.05.1990, there is no bar under the Motor Vehicles Act for a manufacturer or service centre. Therefore, it is permitted under the circular referred above issued by the manufacturer namely, M/s.Bajaj Auto Ltd.

4. The learned counsel further submitted that in fact, the 2nd respondent herein filed consumer complaint in C.C.No.105 of 2019 on the file of the District Consumer Disputes Redressal Forum, Chengalpattu, wherein the copy of Bill dated 23.11.2007 is enclosed. Thus, the 2nd respondent in order to evade the consequences or infraction of Rule 102 lodged the present complaint resulted in the impugned F.I.R.

5. The learned Government Advocate (Crl.Side) would submit that the investigation is almost completed and the respondent police is yet to file final report.

6. Heard Mr.P.Dinesh Kumar, learned counsel appearing for the petitioner and Mr.A.Gopinath, learned Government Advocate (Crl.Side) appearing for the first respondent as well as Mr.V.Shivalingam, learned counsel appearing for the second respondent.

7. All the grounds raised by the petitioner are mixed question of facts and it cannot be considered in the quash petition to quash the entire F.I.R, since the F.I.R is not an encyclopedia and it has to be investigated in deep to unearth the crime committed by the accused.

8. 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 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.

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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 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."

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 2019, the 1st respondent is directed to complete the investigation in Crime No.398 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(CS IV)

True Copy//

Sub Assistant Registrar

sp/anu

To

1. The Inspector of Police,
Kanchi Taluk Police Station,
Kancheepuram.
2. The Public Prosecutor,
Madras High Court.

+1cc to Mr.P.Dinesh Kumar, Advocate, S.R.No.37549

+1cc to Mr.V.Shivalingam, Advocate, S.R.No.37283

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PL[co]

NSK/13/07/2022