

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.NO.16866 OF 2020

AND

CRL.M.P.NO.6534 OF 2020

1.Tony Vijay

2.Swetha Kirubakaran

3.Stella Mary

...Petitioners / Accused

Vs.

1.State rep. by its,
Inspector of Police,
W-15 All Women Police Station,
Royapuram,
Chennai - 600 013.
Crime No.3 of 2018

2.Malarvizhi

3.Ashwini

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in Crime No.3 of 2018 on the file of 1st respondent/complainant and to quash the same.

For Petitioners : Mr.C.Krishnamurthy

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

Fro R2 : Notice served - No appearance

For R3 : Ms.S.Meenakshi

O R D E R

This petition has been filed to quash the F.I.R. in Crime No.3 of 2018 on the file of 1st respondent/complainant for offences under Sections 354, 354A, 509, 294, 469 and 406 of IPC, as against the petitioners.

2. Though notice has been served on the 2nd respondent, no one appeared on behalf of the 2nd respondent.

3. The case of the prosecution is that the 1st petitioner along with the help of 2nd petitioner took photographs of the 2nd respondent's daughter, who is the 3rd respondent herein, by administering some intoxicating medicine. When the 3rd respondent was about to get married, on 17.08.2018, the 1st petitioner shared the photographs through online as if the 3rd respondent and the 1st petitioner were in love and this communication was communicated to the fiancée of the 3rd respondent, which resulted in break of marriage. Hence, the 2nd respondent has lodged a complaint before the 1st respondent.

4. The learned Counsel appearing for the petitioners would submit that the petitioners have not committed any offence as alleged by the prosecution. Without any base, the 1st respondent police registered a case in Crime No.3 of 2018 for the offences under Sections 354, 354A, 509, 294, 469 and 406 of IPC, as against the petitioners. Hence, he prayed to quash the same.

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.C.Krishnamurthy, learned counsel appearing for the petitioners and Mr.A.Gopinath, learned Government Advocate (Crl.Side) appearing for the first respondent as well as M/s.S.Meenakshi, learned counsel appearing for the third respondent.

7. It is seen from the First Information Report that there are specific allegations as against the petitioners to attract the offences, 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. This Court finds that the FIR discloses prima facie commission of cognizable offence and as such this Court cannot interfere with the investigation.

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 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 Court 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 2018, the 1st respondent is directed to complete the investigation in Crime No.3 of 2018 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-II)

// True Copy //

Sub Assistant Registrar

sp/anu

To

1.The Inspector of Police,
W-15 All Women Police Station,
Royapuram, Chennai - 600 013.

2.The Public Prosecutor,
Madras High Court.

+1cc to M/s.G.Krishnamurthy, Advocate Sr.No.37919

Cr1.O.P.No.16866 of 2020

PL(CO)
RVM(11/07/2022)