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CRL.O.P.No.18262 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2022

CORAM:

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

CRL.O.P.No.18262 of 2020

and

CrI.M.P.No.7141 of 2020

P.Ravikumar

... Petitioner

Vs.

1.The Inspector of Police (Crime Branch),  
E-1, Mylapore Police Station,  
Mylapore, Chennai.

2.S.Loganathan

... Respondents

**Prayer:** Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in FIR.No.1078 of 2020, pending on the file of the Inspector of Police (Crime Branch) E-1, Mylapore Police Station, Chennai and quash the FIR as against the petitioner.

For Petitioner : M/s.Rua

For Respondents

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

For R2 : Mr.C.H.Vinoba Gandhi



**ORDER**

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This petition has been filed to quash the F.I.R.No.1078 of 2020 registered by the first respondent police for the offences under Sections 420 and 406 IPC, as against the petitioner.

2. The case of the prosecution is that the petitioner herein is a sole accused and he received a sum of Rs.46,00,000- (Rupees Forty Six Lakhs only) from the 2<sup>nd</sup> respondent on the promise that he was arranged Government jobs to his friends and relatives in Tamil Nadu Transport Corporation.

3. The learned Counsel appearing for the petitioner submitted that the 1<sup>st</sup> respondent has no jurisdiction to enquire the complaint as the area of the complainant is not under his jurisdiction and there is no averment in the FIR that the money was received by the petitioner in the jurisdiction of the first respondent. He further submitted that there is no prima facie case made out against the petitioner therefore, he prays to quash the FIR.

4. The learned Government Advocate (Crl. Side) appearing for the 1<sup>st</sup> respondent police submitted that the investigation is almost completed and the respondent police have only to file final report.



5. Heard, M/s.M.A.Rua, the learned counsel appearing for the petitioner and Mr.A.Gopinath, learned Government Advocate (Crl. Side) appearing for the first respondent police.

6. On a perusal of the FIR, it revealed that there are specific allegations as against the petitioner to attract offence under Section 406 of IPC. That apart the grounds raised by the petitioner are mixed question of facts and it cannot be considered under Section 482 of Cr.P.C.

7. 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 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."*

8. 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 1<sup>st</sup> respondent is directed to complete the investigation in FIR No.1078 of 2020 and file a final report within a period of twelve weeks from the date of receipt



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of a copy of this Order, before the jurisdiction Magistrate, if not already filed.

Consequently, connected miscellaneous petition is closed.

29.06.2022

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order  
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To

1. The Inspector of Police (Crime Branch),  
E-1, Mylapore Police Station,  
Mylapore, Chennai.
2. The Public Prosecutor,  
High Court, Madras.



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**G.K.ILANTHIRAIYAN, J.**  
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