



Crl.O.P.No.20259 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.20259 of 2020

and

Crl.M.P.No.5234 of 2022

M.Kumaraguru

... Petitioner

Vs.

1. The State

Represented by Inspector of Police,
District Crime Branch,
Cuddalore.

2. Azhaganandam

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in FIR.No.06 of 2020 pending on the file of the first respondent and to quash the same as against the petitioner.

For Petitioner : Ms.R.Rathidevi

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

For R2 : Mr.T.R.Ravi for
Mr.M.Muthappan



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ORDER

This petition has been filed to quash FIR in FIR.No.06 of 2020 pending on the file of the first respondent, for the alleged offences under Sections 406 and 420 of IPC, as against the petitioner.

2. The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.06 of 2020, for the offences under Sections 406 and 420 of IPC, as against the petitioner. Hence he prayed to quash the same.

3. The learned Government Advocate (Criminal Side) would submit that the investigation is almost completed and the respondent police have only to file final report.



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4. Heard Ms.R.Rathidevi, learned counsel appearing for the petitioner, Mr.A.Gopinath, learned Government Advocate (Crl.Side) appearing for the first respondent and Mr.T.R.Ravi, learned counsel appearing for the second respondent.

5. It is seen that there are specific allegations to attract the offences under Sections 406 and 420 of IPC. A perusal of the FIR revealed that there are 2 accused in which the petitioner is arrayed as A2. The first accused is the father-in-law. Both the accused assured the defacto complainant that a land belong to the second accused and the petrol bunk belong to the first accused. The licence / Dealership was issued in favour of the first accused. On the strength of the said representation, the entire bunk has been leased out in favour of the second respondent and received a sum of Rs.30,00,000/- as lease amount. That apart, for stock of petrol they also received a sum of Rs.11,27,557/-. Thereafter, found that the licence was issued in favour of one Tamilselvi w/o Chandrakumar. Thereafter, the defacto complainant has been sent



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out from the petrol bunk, thereby caused loss to the tune of Rs.30,00,000/- to the defacto complainant. Therefore, the offences under Sections 406 and 420 of IPC are clearly made out as against the petitioner herein. 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. The investigating machinery has to step in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

6. 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



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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



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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 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



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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."

7. In view of the above discussion, this Court is not inclined to quash the First Information Report. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

01.07.2022

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
mn/cda

To

1. The Inspector of Police,
District Crime Branch,
Cuddalore.
2. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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