

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.06.2022

CORAM

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.18332 of 2020

Titus Williyam

... Petitioner

Vs

1. The State Rep. By
The Inspector of Police,
Kunnam Police Station,
Perambalur District.
(Crime No.527 of 2020)

2. Rajeshkannan
Village Administrative Officer,
Keelaperambalur,
Kunnam Taluk,
Perambalur District.

... Respondents

PRAYER: Criminal Original Petitions filed under Section 482 of Cr.P.C, praying to call for the records and quash the FIR in Crime No.527 of 2020 pending on the file of the Kunnam Police Station, Perambalur.

For Petitioners : Mr.D.Ashok kumar

For Respondents

For R1 : Mr.A.Gopinath

Government Advocate (Cr1. Side)

For R2 : No appearance

O R D E R

This petition has been filed to quash the F.I.R. in Crime No.527 of 2020 registered by the first respondent police for offences under Sections 188, 269, 406, 417 & 420 of IPC and Section 51(b) of the Disaster Management Act, 2005, as against the petitioner.

2. The case of the prosecution is that the petitioner being the District Secretary of unorganized labour union, on a false promise to include the village people in the labour welfare scheme to get Rs.1,000/- and free ration materials, collected their Aadhar card, ration card and cash of Rs.500/- to Rs.1,000/- as commission and cheated the villagers. Hence, the Village Administrative Officer, Keelaperambalur, lodged the present complaint as against the petitioner and another.

3. The learned counsel appearing for the petitioner submitted that the Village Administrative Officer has lodged the complaint and no victim has lodged any complaint. The petitioner is the President of the Non Government Organization called Annai Therasa Educational Trust. As far as the petitioner is concerned he never collected any money from the general public and all the allegations are bald and vague. No offence is made out as against the petitioner even according to the prosecution. Therefore he prayed to quash the F.I.R.

4. The learned Government Advocate (Crl. Side) appearing for the first respondent police submitted that there are two accused in which the petitioner is arrayed as A2. Both the accused persons had collected a sum of Rs.500 to Rs.1000/- from the general public, on a false promise to include them in the Labour Welfare Scheme to get Rs.1,000/- and also free ration materials, thereby cheated the villagers of Keelaperambalur village. Hence, he prayed for dismissal of the present petition.

5. Heard Mr.D.Ashok kumar, learned counsel appearing for the petitioner and Mr.A.Gopinath, learned Government Advocate (Crl. Side) appearing for the first respondent.

6. It is seen from the First Information Report that there are specific allegations as against the petitioner 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. The investigating machinery has to step in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

7. 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 Pokarnekhar 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 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 discussions, 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 2020, the first respondent is directed to complete the investigation in Crime No.527 of 2020 and file a final report within a period of eight weeks from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Inspector of Police,
Kunnam Police Station,
Perambalur District.
(Crime No.527 of 2020)
2. The Village Administrative Officer,
Keelaperambalur,
Kunnam Taluk,
Perambalur District.
3. The Public Prosecutor,
Madras High Court,
Chennai.

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