

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.06.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.18389 of 2020

and

Crl.M.P.No.7183 of 2020

1. J.Kalaiselvi
2. S.Arthi
3. B.Parameswari
4. J.Aruvambal

...Petitioners

Vs

1. The State Rep. By
The Inspector of Police,
Kairalabad (Thelur) Police Station,
Ariyalur District - 621 704

2. Tamilkodi

...Respondents

PRAYER: Criminal Original Petitions filed under Section 482 of Cr.P.C, praying to call for the records culminating in Crime No.18 of 2020 on the file of the first respondent and quash the same.

For Petitioners: Mr.K.Chandrasekaran

For Respondents

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

O R D E R

This petition has been filed to quash the F.I.R. in Crime No.18 of 2020 registered by the first respondent police for offences under Sections 147, 294(b) 323 and 506(1) of IPC and Section 4 of The Prohibition of Harassment of Women Act, as against the petitioners.

2. The case of the prosecution is that on 04.02.2020, the cattle of the second respondent went to the petitioners' land as such, the petitioners and other accused persons scolded the second respondent with filthy language and also threatened her with dire consequences. Further without any occurrence, the first petitioner's husband got admitted in the Government

hospital, Ariyalur, as if the second respondent and her family members were attacked him. While being so, on 05.02.2020, when the second respondent was in her house, the accused persons went to her house and scolded her with filthy language and also threatened her with dire consequences. They also attacked her on her stomach and therefore, the second respondent/defacto complainant fell down. Hence the complainant.

3.The learned counsel appearing for the petitioners submitted that there are totally five accused in which the petitioners are arrayed as A2 to A5. For the very same occurrence, there was a counter complaint lodged before the first respondent in Crime No.17 of 2020 and after completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C. No.204 of 2020 on the file of the Judicial Magistrate Court - I, Ariyalur. Therefore, the present complaint is nothing but counter complaint in order to escape from the clutches of law.

3.1.He further submitted that as far as the first petitioner is concerned, she is working as Post Graduate Assistant Teacher in Government Higher Secondary School, Sundagudi village, which is more than 20 Km away from her house. There is no direct bus to her house and it will take minimum of two hours journey in bus. Further on the date of alleged occurrence, she was in school and attended the class. There is a evidence to show that the bio metric attendance in the school premises. Therefore, the entire allegations made in the FIR is nothing but illusory and ulterior motive of the second respondent as counter blast and made the petitioners as accused in the impunged FIR.

4.The learned Government Advocate (CrI. Side) appearing for the first respondent police filed counter and submitted that after the occurrence the second respondent/defacto complainant admitted in the hospital. After recording the statement of the defacto complainant and her husband, the present FIR has been registered and entire investigation is completed and about to file a final report. Therefore, he prayed for dismissal of the present petition.

5.Heard Mr.K.Chandrasekaran, learned counsel appearing for the petitioners and Mr.A.Gopinath, learned Government Advocate (CrI. Side) appearing for the first respondent.

6.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. 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 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 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.18 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. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rts

To

1. The Inspector of Police
Kairalabad (Thelur) Police Station,
Ariyalur District - 621 704.
2. The Public Prosecutor,
Madras High Court, Chennai.

Crl.O.P.No.18389 of 2020
and Crl.M.P.No.7183 of 2020

KK(CO)
RGA(26/07/2022)