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CRL.O.P.No.18971 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.18971 of 2020

and

CrI.M.P.No.7518 of 2020

Dr. S.Usha

... Petitioner

Vs.

1.The State Rep by
The Inspector of Police,
Coimbatore City Crime Branch,
Coimbatore District.
(Crime No.46 of 2018)

2.Vasanth Kumari

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to quash the FIR 46 of 2018 on the file of the Inspector of Police, Coimbatore City Crime Branch, Coimbatore District.

For Petitioner : No appearance

For Respondents

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



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ORDER

This petition has been filed to quash the F.I.R. in Crime No.46 of 2018, registered by the first respondent police for offences under Sections 193, 196, 199, 200, 468, 471, 420 r/w 109 IPC, as against the petitioner.

2.1. The petitioner herein is a Doctor and she was permitted to retire as Government Civil Surgeon, Combatore Medical College Hospital on 30.10.2018 by the Government subject to charges. On 25.07.2018, the petitioner issued a medical certificate in favour of Mohamed Sahib and the said certificate was produced without knowledge of the petitioner before the Special Court under EC NDPS Act, Coimbatore on behalf of the accused. Due to which, the Government of Tamil Nadu initiated departmental proceedings as against the petitioner by framing charges under Rule 17(B) of Tamil Nadu Civil Service (Disciplinary and Appeal) Rules.

2.2. Thereafter, the defacto complainant had approached the 1st respondent police by way of complaint dated 20.09.2018 against the petitioner and others. Hence, the complaint was registered in FIR.No.46 of 2018 for the alleged offences under Sections 193, 196, 199, 200, 468, 471, 420 r/w 109



IPC. Further, the petitioner was arrayed as 4th accused in this case by the complainant as against the said proceedings and the petitioner filed a quash petition on some other grounds before this Court, which was withdrawn by the petitioner.

3. The learned Counsel appearing for the petitioner submitted that the petitioner is an innocent person and she has not committed any offence as alleged by the prosecution. Further, the defacto complainant has no jurisdiction to approach the complainant as against the petitioner and without any base, the 1st respondent police registered a case in Crime No.46 of 2018 for the offences under Sections 193, 196, 199, 200, 468, 471, 420 r/w 109 IPC, as against the petitioner. Hence he prayed to quash the same.

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

5. No one appearing for the petitioner and heard Mr.A.Gopinath, learned Government Advocate (Crl. Side) appearing for the first respondent police.



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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 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 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 FIR No.46 of 2018 and



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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, 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,
Coimbatore City Crime Branch,
Coimbatore District.
2. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.
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