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CRL.O.P.No.18979 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.18979 of 2020

1.B.Bhaskar

2.B.Vinoth

... Petitioners

Vs.

1.The Inspector of Police,
C-1, Flower Bazaar Police Station,
Chennai.
(Crime No.78 of 2020)

2.M.Megala

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C.
praying to call for the records and quash the proceedings in Crime No.78 of
2020, pending on the file of the 1st respondent police.

For Petitioners : Mr.P.Muthamizh Selvakumar

For Respondents

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

For R2 : Mr.V.Balamurugan



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ORDER

This petition has been filed to quash the F.I.R. in Crime No.78 of 2020, registered by the first respondent police for offences under Sections 447, 448, 380, 294(b) and 506(2) of IPC, as against the petitioners.

2.1. The case of the prosecution is that the petitioners are the owners of the shop situated at Bandhar Street, Parries Corner, Chennai and rental the shop to the defacto complainant since 2013. The defacto complainant running a FSSI licensed fruit shop and paying a rent of Rs.15,000/- for every month subsequently it was increased to Rs/20,000/- by the petitioners without consent or intimation of the defacto complainant. On 10.07.2019, due to the increased monthly rent, the defacto complainant intent to vacate the shop and the same was intimate to the petitioners.

2.2. Thereafter, the next day morning at about 5.00 a.m., the defacto complainant went to open the shop where, she noticed that the lock of the shop was broken, entire things were thrown out and things worth about Rs.25,000/- were looted from the shop. Thereafter, the defacto complainant contacted the petitioners and questioned about the incident and they replied the same and



threatened the defacto complainant with dire consequences. Hence, the defacto complainant lodged complaint before the 1st respondent and the same was registered in C.S.R.No.406 of 2019 on 16.07.2019. Further, the defacto complainant had approached the learned Metropolitan Magistrate Court -VIII, for direction through 156(3) of Cr.P.C, in which the respondent police was directed to investigate the case by which, the 1st respondent police registered the case in Crime No.78 of 2020 for the offences under Sections 447, 448, 380, 294(b), 506(2) of IPC, and the same was pending before the 1st respondent police.

3. The learned Counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. Without any base, the 1st respondent police registered a case in Crime No.78 of 2020 for the offences under Sections 447, 448, 380, 294(b), 506(2) of IPC, as against the petitioners. Hence he prayed to quash the same.

4. The learned Government Advocate (Crl. Side) appearing for the 1st



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respondent police submitted that the investigation is almost completed and the respondent police have only to file final report.

5. Heard Mr.P.Muthamizh Selvakumar, learned counsel appearing for the petitioners and Mr.A.Gopinath, learned Government Advocate (Crl. Side) appearing for the first respondent police.

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 ***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."



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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 2019, the 1st respondent is directed to complete the investigation in Crime No.78 of 2020 and file a final report within a period of twelve weeks from the date of receipt of a copy of this Order, before the jurisdiction Magistrate, if not already filed.

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Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order
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G.K.ILANTHIRAIYAN, J.

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To

1. The Inspector of Police,
C-1, Flower Bazaar Police Station,
Chennai.
2. The Public Prosecutor,
High Court, Madras.

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