

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.NO.19046 OF 2020

AND

CRL.M.P.NO.7582 OF 2020

1.D.P.Subha

2.A.Porchezian

... Petitioners

Vs.

1. State Rep by
Inspector of Police,
Denkanikottai Police Station,
Krishnagiri District,
(Crime No.387 of 2020)

2. P.Padmapriya

... Respondents

Prayer:

Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records of the FIR in Crime No.387 of 2020, on the file of the Inspector of Police, Denkanikottai Police Station, Krishanagiri District and to quash the same in view of the proceedings on the petitioners as accused A2 and A3.

For Petitioner : Mr.R.Balaguru Swamy

For Respondents

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

For R2 : No appearance

O R D E R

This petition has been filed to quash the proceedings in F.I.R in Crime No.387 of 2020, registered by the first respondent/Police for the offences under Sections 147, 323 and 324 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, as against the petitioners.

2. The case of the prosecution is that the de-facto complainant's husband one Rajendra Babu was working in Ashok

Leyland at Pennangur Branch. The parental home of the 2nd respondent is at Harur, Dharmapuri District. It is stated in the FIR that before two years of the registration of the criminal complaint, she married with the said Rajendra Babu/1st accused. After their marriage, out of their wedlock, a female child was born and she is 11 months old and on 04.01.2020 the de-facto complainant went to write an exam, by staying at her parental home, and returned back to matrimonial home on 21.01.2020 and the accused persons including the petitioners restrained her and refused to allow her into the house and subsequently, on 06.02.2020 at 8.30 a.m., when she attempted to enter into the matrimonial home, the 1st accused D.S.Pandiyan, the petitioners and sister-in-law of the de-facto complainant (P.Shylaja) and her husband Manikandan assaulted the de-facto complainant, due to which, she got injury on the left forehead around eye and assaulted in the limb with rod and subsequently, without hesitation, she was escaped and admitted in Government Hospital, Denkanikottai through 105 ambulance service and based on the incident, the 1st respondent/police enquired and registered a case on 06.02.2020 for the offences under Sections 147, 323 and 324 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002.

3. The learned Counsel appearing for the petitioners submitted that the case of the de-facto complainant is totally wrong and fabricated one and hence, the same is not maintainable. He further submitted that the petitioners are no way connected with the above offences and there was no such incident or alleged offences took place for the reason that both petitioners are working in the Teaching profession under the Government and further, the 1st respondent/police, without proper enquiry, impleaded these petitioners/A2 and A3 and the de-facto complainant, with an intention to harass the petitioners, lodged a false complaint against the petitioners. Therefore, he prays to quash the FIR.

4. The learned Government Advocate (Crl. Side) appearing for the 1st respondent/police submitted that there is a counter complaint registered in Crime No.386 of 2020, and the investigation is almost completed in Crime No.387 of 2020, and the 1st respondent/police have only to file final report.

5. Heard, Mr.R.Balaguru Swamy, the learned counsel appearing for the petitioners and Mr.A.Gopinath, learned Government Advocate (Crl. Side) appearing for the first respondent police and perused the materials available on record.

6. It is also seen that counter complaint has also been lodged, in which, the 1st respondent registered the case in Crime No.386 of 2020 for the offence under Sections 142, 294(b), 323

and 506(i) of IPC as against the de-facto complainant. However, there are specific averments and allegations to attract the offences under Sections 147, 294(b), 323 and 506(i) of IPC.

7. 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 offences 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.

8. 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."

9. In view of the above discussion and the decision of the Hon'ble Supreme Court, this Court is not inclined to quash the First Information Report. Accordingly, this Criminal Original Petition stands dismissed. However, considering the fact that the crime is of the year 2020, the 1st respondent is directed to follow the procedures laid down under Order 588-A of the Police Standing orders and complete the investigation and file a final report within a period of twelve weeks from the date of receipt of a copy of this order, before the jurisdictional Magistrate, if not already filed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

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Sub Assistant Registrar

To

1. The Judicial Magistrate,
Denkanikottai, Krishanagiri District.
2. Inspector of Police,
Denkanikottai Police Station,
Krishnagiri District.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Balaguru Swamy, Advocate, S.R.No.41470

Crl.O.P.No.19046 of 2020

RGN(CO)
PM/27/07/2022