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CRL.O.P.No.20723 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRL.O.P.No.20723 of 2020
and CrI.MP.No.8767 of 2020

Ananthakumar

... Petitioner

Vs.

1. The Inspector of Police,
Killai Police Station,
Cuddalore District.
(Cr.No.7 of 2019)

2. The Regional Passport Officer,
Rayala Towers No.2 & 3,
IV Floor, Old No.785, New No.158,
Anna Salai, Chennai-600002.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in Cr.No.07 of 2019, pending on the file of the Inspector of Police, Killai Police Station, Cuddalore District and quash the same.

For Petitioner : M/s.V.Lakshmi Narayanan

For Respondents

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

For R3 : Mr.S.N.Parthasarathi,
Senior Central Government Standing Counsel



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ORDER

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This petition has been filed to quash the F.I.R. in Crime No.07 of 2019 registered by the first respondent police for offences under Sections 419, 420, 468, 471 IPC r/w Section 12(1)(a) of Passport Act, as against the petitioner.

2. The case of the prosecution is that based upon the complaint lodged by the second respondent, the first respondent registered the F.I.R as against the petitioner. The allegations made in the complaint that the petitioner had obtained passport by impersonating one Varathan s/o Pakirisamy, using his ration card. Hence, the case.

3. The learned counsel for the petitioner would submit that prior to the registration of the F.I.R as against the petitioner, the first respondent has to get previous sanction of the Central Government as mandate under Section 15 of the Passports Act, 1967. He would further submit that the Deputy Secretary, Ministry of External Affairs vide in letter No.V1/401/17/2001 dated 02.01.2009, stated that the Central Government has delegated powers to the State Government and Administrations of the Union Territories for launching prosecution in the matter of offences arising out of the Passport Act, 1967 and to issue sanction for prosecution in respect of the offences under Section 12 of



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the said Act within their respective territorial jurisdiction. Therefore, Section 15 of the Passport Act mandates that no prosecution shall be instituted against a person in respect of any offence under the Passport Act, without previous sanction of the Government. Whereas, in this case, no such sanction was issued for prosecution. He would further submit that petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.07 of 2019 for the offences under Sections 419, 420, 468, 471 IPC r/w Section 12(1)(a) of Passport Act, as against the petitioner. Hence he prayed to quash the same.

4. The learned Government Advocate (Crl.Side) would submit that the investigation is under progress and the respondent police have only to file final report.

5. Heard M/s.V.Lakshmi Narayanan learned counsel appearing for the petitioner as well as Mr.A.Gopinath, learned Government Advocate (Crl.Side) appearing for the first respondent and Mr.S.N.Parthasarathi, learned Senior Central Government Standing Counsel appearing for the second respondent.

6. On a perusal of the materials available on records, it reveals that



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sanction for prosecution as mandate under Section 15 of the Passport Act, 1967, and without such sanction, the petitioner could not be prosecuted.

Whereas, in the case on hand, the first respondent has only registered the F.I.R. Section 15 of the Passport Act, 1967 states only the sanction for prosecution and not for registration of the F.I.R. It is relevant to extract the provision under Section 15 of the Passport Act, 1967, which reads as under:

"15.Previous sanction of Central Government necessary:-

No prosecution shall be instituted against any person in respect of any offence under this Act without the previous sanction of the Central Government or such officer or authority as may be authorised by that Government by order in writing in this behalf."

7. In view of the above, it is evident that no prosecution shall be instituted against any person in respect of any offence under the said Act, without previous sanction of the Central Government. Whereas, in the present case, the first respondent need not obtain any previous sanction from the Central Government for registration of the F.I.R. That apart the petitioner has committed a very serious offence by impersonating one Varathan s/o Pakirisamy, using his ration card and there are specific allegations against him to attract the offences under Section 419, 420, 468, 471 IPC r/w Section



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12(1)(a) of Passport Act.

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8. It is seen from the First Information Report that there are specific allegations as against the petitioner to attract the offence, 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.

9. 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



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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."

10. 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, the first respondent is directed to complete the investigation in Crime No.07 of 2019 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.

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Index : Yes / No
Speaking / Non Speaking order
Anu



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High Court, Madras.



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