



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2022

CORAM:

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

Crl.O.P.(MD) No.1127 of 2022

in

Crl.M.P.(MD) No.801 of 2022

WEB COPY

1. Perumal @ Arunachalam
2. Ganavel @ Gnanavel
3. Krishnan
4. S.Suresh

...Petitioners/
Accused No.1 to 4

Vs.

1. State through
The Inspector of Police,
Valanadu Police Station,
Trichy District.
Crime No.22 of 2020.

...1st Respondent/
Complainant

2. Ravindran

...2nd Respondent/
Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records pertaining to the Impugned FIR in Crime No.22 of 2020 dated 29.01.2020, on the file of the 1st respondent Police and to quash the same Accused 1 to 4 as illegal.

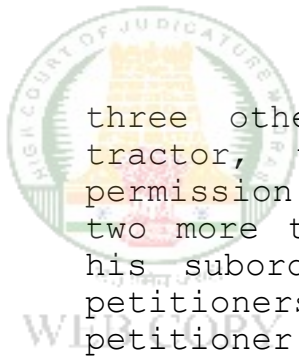
For Petitioners	:	M/s.S.Gopala Manikandan
For R1	:	Mr.M.Aasha
		Government Advocate (Criminal Side)
For R2	:	Mr. A.Chandrasekaran

ORDER

The petition has been filed to quash the FIR in Crime No.22 of 2020 on the file of the first respondent police.

2.Though compromise memo has been filed by the petitioners and the defacto complainant, no one present for the past three occasions. It shows that there is no compromise between them.

3.The case of the prosecution is that the defacto complainant is the Village Administrative Officer at Thirunellipatti Village. On 28.01.2020, during patrol, the defacto complainant along with



three other Village Administrative Officers were intercepted a tractor, which was illegally transported sand without proper permission. But they not stopped the vehicle and it was followed by two more tractors. Therefore, the defacto complainant along with his subordinates followed the said tractors and found that the petitioners accumulated sand illegally. While being so, the first petitioner used filthy languages and stated that they took sand from the Ochan pond without any permission. The defacto complainant captured this in his mobile phone, suddenly other accused gathered and tried to attack the officials and the village people too tried to attack the officials. Therefore, the defacto complainant lodged a complaint before the first respondent and the same has been registered in Crime No.22 of 2020 for the offences under Sections 147, 294(b), 341, 427, 353 and 506(i) of IPC.

4.It is also 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 - Sau. Kamal Shivaji Pokarnekhar 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.

6.....

7.....

8.....

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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."

5. In view of the above discussion, this Court is not inclined to quash the First Information Report. Hence this Criminal Original Petition stands dismissed. However, the first respondent police is directed to complete the investigation and file final report before the concerned Magistrate, within a period of twelve weeks from the date of receipt of a copy of this Order. Consequently, connected miscellaneous petition is closed.

6. However, the petitioner is at liberty to file a fresh petition to quash the FIR, if the parties entered in compromise.

Sd/-

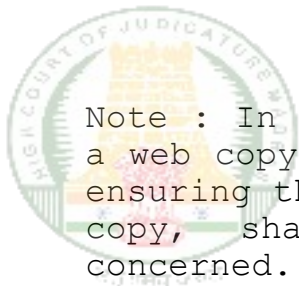
Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lr



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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- To
1. The Inspector of Police,
Valanadu Police Station,
Trichy District.
 2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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RD(24.03.2022) 4P 3C