



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2022

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P(MD)No.813 of 2022

&

Crl.M.P(MD)No.579 of 2022

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- 1.Kumar @ Ram Kumar
- 2.Pandiarajan
- 3.Parthiban
- 4.Akkini
- 5.Vijaya

... Petitioners/Accused Nos.1,3,4,5&6

Vs.

1. The State represented by
The Sub Inspector of Police,
Y.Othakadai Police Station,
Madurai District.
In Crime No.80 of 2021 ... 1st Respondent/ Complainant

2. Maniraja ... 2nd Respondent/
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the entire records pertaining to the Crime No. 80 of 2021, on the file of the first respondent Police, quash the same insofar as the petitioners are concerned.

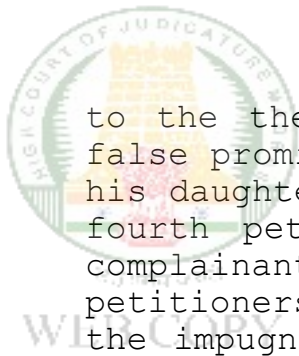
For Petitioners : Mr.D.Anbarasu

For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor
(Criminal Side)
for R.1

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No. 80 of 2021, on the file of the first respondent Police.

2. The case of the prosecution is that the fourth petitioner have one daughter, namely, Gopika, who is studied Law College at Prist University, Sivagangai. In the meanwhile, the second respondent, who is residing at Thirumogur and he is a drug addict and having so many criminal cases in and around the city with regard



to the theft, robbery, murder, etc. The second respondent gave a false promise to the fourth petitioner's daughter and he has cheated his daughter and at the end, they got married on 08.02.2021. But the fourth petitioner's daughter while in his custody, gave a false complainant before the respondent Police stating that the petitioners have kidnapped his wife illegally and based on which, the impugned FIR has been registered under Sections 147, 342, 323, 366 IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 was registered against the petitioners. The second respondent filed a Habeas Corpus Petition before this Court in H.C.P (MD)No.260 of 2021, for which, on 16.02.2021, the fourth petitioner's daughter was produced before this Court and she wants to go with the second respondent, thus the said petition was ordered to that effect.

3. The learned Additional Public Prosecutor (Criminal Side) submitted that again the petitioners have kidnapped the wife of the second respondent and in pursuant to which, another Crime No.74 of 2022 has been registered on the file of the Inspector of Police, Pudur Police Station, Madurai. It is pending for investigation.

4. Heard both sides and perused the materials available on record.

5. It is seen from the First Information Report that there are specific allegations as against the petitioners, which has to be investigated. Further, the FIR is not an encyclopedia and it need not contain all the facts. Further, it cannot be quashed at 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.

6. 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.....

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8.....

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."

7. 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.

Sd/-

Assistant Registrar (T&P)

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// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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.

To

1. The Sub Inspector of Police,
Y.Othakadai Police Station,
Madurai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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MGJ(20.04.2022) 4P 3C