



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.02.2022

CORAM :

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

Crl.O.P. (MD)No.1699 of 2022

and

Crl.M.P. (MD)No.1242 of 2022

V.Sundaralingam

... Petitioner

Vs.

1.The Inspector of Police,
All Women Police Station,
Marthandam, Kanyakumari District.

2.A.Josphin

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the proceedings in First Information Report in Crime No.58 of 2021 on the file of the first respondent dated 04.12.2021 and to quash the same against the petitioner alone.

For Petitioners : M/s.P.Jessi Jeeva Priya
For R1 : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)

For R2 : Mr.J.John Jeyakumar

ORDER

This petition has been filed seeking quashment of the First Information Report in Crime No.58 of 2021 on the file of the first respondent police.

2. The case of the prosecution is that the petitioner had illegal relationship with the defacto complainant and aborted her pregnancy forcibly without her permission and also criminally intimidated her.

3.The learned Counsel appearing for the petitioner would submit that the petitioner is innocent 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. 58 of 2021 for the offences under Sections 323, 354-A, 376 and 313 of IPC as against the petitioner.



4.The learned Additional Public Prosecutor would submit that there are totally eight accused in the case and the petitioner is arrayed as first accused and the investigation is completed and the respondent police are about to file the final report before the concerned court.

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

6. It is seen from the First Information Report that there are specific allegation as against the petitioner, which has to be investigated. Further the FIR is not an encyclopedia and it need not contain all facts. Further, 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 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.

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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."

8. 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 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. It is made clear that the second respondent has lodged the similar nature of complaint as against the other persons and the first respondent is directed to consider those complaints while conducting investigation. Consequently, connected miscellaneous petition is closed.

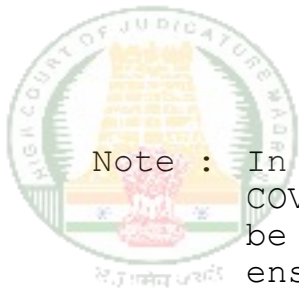
Sd/-

Deputy Registrar (LA & MC)

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/ /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 Inspector of Police,
All Women Police Station,
Marthandam,
Kanyakumari District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.J.JOHN JAYA KUMAR, Advocate (SR-5986[F] dated
14/02/2022)

+1 CC to M/s.P.JESSI JEEVA PRIYA, Advocate (SR-6041[F] dated
14/02/2022)

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MGJ(07.03.2022) 4P 5C