



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.2519 of 2022

and

Crl.M.P(MD)No.1886 of 2022

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Kannan

... Petitioner/Accused No.2

Vs.

1. State represented by,
The Inspector of Police,
Palayamkottai,
Tirunelveli City District.

... 1st Respondent/
Complainant

2. Mary Victoria Beetrice

... 2nd Respondent/
Defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to the case registered in First Information Report in Crime No.43 of 2022 on the file of the first respondent and quash the same as illegal.

For Petitioner : Mr.G.Anto Prince

For R - 1 : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.43 of 2022 on the file of the first respondent as against the petitioner.

2. The case of the prosecution is that the defacto complainant is the wife of the deceased, namely, one Samson Devadhas. Both the defacto complainant and the deceased were serving as Headmaster in T.D.T.A Primary School, Kattalai and T.D.T.A High School, Manakarai. Before 10 years, the owner of Peace Hospital, namely Dr.Anburajan asked the deceased to help him to settle the debt which was borrowed from A.R.Devar. The deceased often lamented to the defacto complainant that the deceased borrowed some money from LIC Kannan and also gave his own money, totalling a sum of Rs.3 crores, which was given to Dr.Anburajan as a help to settle his debt. In this regard, no document was seen by the defacto complainant. The deceased informed his wife that LIC Kannan came to the house before one year and asked the amount which was borrowed by him. Thereafter,



the said LIC Kannan asked the money from the deceased through phone calls. On 11.01.2022, the deceased consumed poison and he was admitted in hospital. On the very same day, the defacto complainant's husband died. Hence, the present complaint is lodged as against the accused persons.

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3. The learned counsel appearing for the petitioner would submit that there is absolutely no evidence to show that soon before the incident, there was inducement by the petitioner to the deceased to commit suicide. The petitioner also seeks time to produce call details between the petitioner and the deceased.

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

5. 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.

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 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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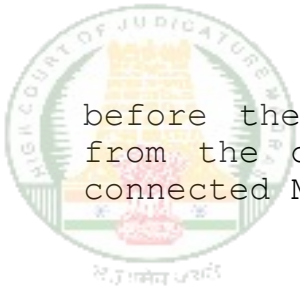
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9. Having heard the learned Senior Counsel and examined the material on record, we are of the considered view that the High Court ought not to have set aside the order passed by the Trial Court issuing summons to the Respondents. A perusal of the complaint 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."

7. Though the petitioner raised this ground the call details and other materials, cannot be looked into at this stage of F.I.R, that too, by this Court. All the materials produced by the petitioner has to be gone into with full-fledged investigation by the respondent police.

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 first respondent is directed to complete the investigation and file a final report, while filing the report look into the materials produced by the petitioner,



before the concerned Magistrate, within a period of twelve weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AS)

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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 Inspector of Police,
Palayamkottai,
Tirunelveli City District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.O.P(MD)No.2519 of 2022
15.02.2022

RK(01/03/2022) 4P 3C