



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.02.2022

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P(MD)No.2543 of 2022

and

Crl.M.P(MD)No.1294 of 2022

R.Karthick Kumar ...Petitioner/Accused No.4
Vs.

1.The Inspector of Police,
Jaihindpuram Police Station,
Madurai City. ...1st Respondent/ Complainant
(Crime No.274 of 2020)

2.K.Arumugam
The Sub-Inspector of Police,
Jaihindpuram Police Station,
Madurai City. ...2nd Respondent/
Defacto Complainant

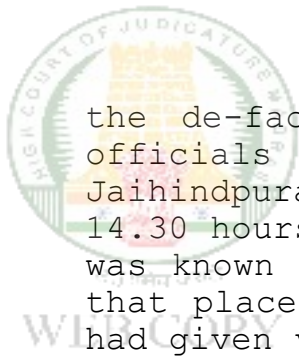
Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the FIR in Crime No.274 of 2020 on the file of the first respondent police and quash the same against the petitioner/Accused No.4.

For Petitioner : Mr.P.Balamurugan
For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor(Crl.Side)

O R D E R

This Criminal Original Petition has been filed to call for the FIR in Crime No. 274 of 2020 on the file of the first respondent police.

2.The case of the prosecution is that a case in Crime No.274 of 2020, dated 14.03.2020, for the alleged offences under Section 399 of Indian Penal Code had been registered as against the petitioner and five other accused persons on the basis of the complaint (*Suo-moto*) lodged by the second respondent herein. The alleged occurrence took place on 14.03.2020 and the case was registered on the same day. Totally six named accused persons involved in the criminal case. In which, the petitioner is arrayed as A4. The allegations found in the FIR is that under the secret information,



the de-facto complainant (Sub-Inspector) along with other police officials went to the Tennis club, Jeeva Nagar 1st Street, Jaihindpuram, Madurai, at that time the A1 to A6 stood there at 14.30 hours. On conducting investigation to the accused persons, it was known that all the accused persons had pre-planned and stood at that place in order to prepare to commit dacoity. Further, the A1 had given voluntary confession before the police officials about the entire facts. Therefore, the above said case was registered as against the petitioner and other accused persons.

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. 274 of 2020 for the offences under Section 399 of IPC.

4.The learned Additional Public Prosecutor would submit that the investigation is pending.

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.

6.....

7.....

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."

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 second respondent 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, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

WEB 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.

To:

- 1.The Inspector of Police,
Jaihindpuram Police Station,
Madurai City.
- 2.The Sub-Inspector of Police,
Jaihindpuram Police Station,
Madurai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.O.P (MD)No.2543 of 2022
07.02.2022

SAR(CO)
KB(22.02.2022) 4P 4C