



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2022

CORAM:

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

Crl.O.P.(MD)No.3049 of 2022

and

Crl.M.P(MD) No.2272 of 2022

Amjathkhan

... Petitioner/ Sole Accused

Vs

1. The Inspector of Police
Paramakudi Town Police Station,
Paramakudi
Ramanathapuram District. ...1st Respondent / Complainant

2. Manager
Ministry of External Affairs,
Regional Passport Office,
Bharathi Ula Veethi,
Race Course Road,
Madurai. ... 2nd Respondent/ Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to Call for the records relating to the FIR in Crime No. 72 of 2021 on the file of the first respondent and quash the same as illegal

For Petitioner : Mr.K.Rajeshwaran

For Respondents : Mr.R.M.Anbunithi
No.1 Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No. 72 of 2021 on the file of the first respondent police.

2. The case of the prosecution is that the petitioner applied for renewal and modification of his date of birth in his passport bearing No.E0823337 in the second respondent office. At the time of getting passport the petitioner mentioned his date of birth as 04.02.1966 and while he applied for re-issuance of passport, he maintained his date of birth as 10.06.1975. After verifying the



same the second respondent referred to issuing authority to ascertain the genuineness of the certificate. The Headmaster, Government Higher Secondary School, Parthibanur had confirmed that the certificate is not genuine and hence the complaint came to be lodged by the second respondent. With the above allegations, the respondent police registered the above FIR.

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. He would further submit that he applied for passport in the year 2001 through one agency and he produced the transfer certificate and other related documents in which the date of birth was clearly mentioned as 10.06.1975, but in the agency it was wrongly mentioned as 04.02.1996 instead of 10.06.1975, it was noticed only by him after he received the passport. Hence he had applied for renewal of passport along with modification of his date of birth. The second respondent informed the petitioner to produce transfer certificate and stated that the petitioner has intentionally given wrong date of birth hence the second respondent called for explanation, thereafter he has submitted his explanation on 15.10.2020 stating his ignorance and he has not availed any benefit by giving wrong date of birth. Hence he sought for quashing the First Information Report.

4. The learned Additional Public Prosecutor would submit that 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 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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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. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writs)

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/ /2022

Sub Assistant Registrar

To

1. The Judicial Magistrate, Paramakudi.

2. The Inspector of Police
Paramakudi Town Police Station,
Paramakudi
Ramanathapuram District

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

+1 CC to M/s.K.RAJESHWARAN, Advocate (SR-6007[F] dated 14/02/2022)

Crl.O.P.(MD)No.3049 of 2022
and

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