



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.03.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL OP(MD) . No.3086 of 2022
and CRL.M.P. (MD)No.2308 of 2022

Thileepan @ Albert Dileep ...Petitioner/Sole Accused

Vs

1. The Deputy Superintendent of Police,
O/o. The Deputy Superintendent of Police,
Thirupattur Sub Division,
Sivagangai District.
2. State through the
Inspector of Police,
Kandavarayanpatti Police Station,
Sivagangai District.
(In Crime No.114 of 2021) ... Respondents/Complainant
3. Gopal ...Respondent/Defacto Complainant

PRAYER :- This Criminal Original Petition filed under Section 482 Cr.P.C.to call for the records of FIR in Crime No.114/2021 on the file of Respondent No. 2 Police Station and quash the same as illegal.

For Petitioner : Mr.S.M.A.Jinnah
For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Criminal Side)
for R1 & R2
: Mr.K.Balasundaram for R3

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No. 114 of 2021 on the file of the second respondent police.

2.The case of the prosecution is that on 20.12.2021 at about 5.00PM the petitioner said to be tear the posters, which were posted by the defacto complainant against the president of A.Velangudi, Sundakadu Post, Tirupattur Taluk. The same was questioned by the



defacto complainant, at that time the petitioner abused the defacto complainant with his caste name. Hence, the defacto complainant lodged complaint against the accused persons. With the above allegations, the respondent police registered the above FIR.

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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 second respondent police registered a case in Crime No. 114 of 2021 for the offences under Sections 3(1)(r), 3(1)(s) of SC/ST (Prevention of Atrocities) Act, 1989 as against the petitioner.

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 allegations as against the petitioner, which have 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.



date of receipt of a copy of this Order. Consequently, connected miscellaneous petition is closed.

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// True Copy //

Sd/-

Assistant Registrar (AE)

/ /2022

Sub Assistant Registrar(CS)

PNM

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 Deputy Superintendent of Police,
O/o. The Deputy Superintendent of Police,
Thirupattur Sub Division,
Sivagangai District.
2. The Inspector of Police,
Kandavarayanpatti Police Station,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER

IN

CRL OP(MD) . No.3086 of 2022
and CRL.M.P. (MD) No.2308 of 2022

Date : 29/03/2022

sg (CO)

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