



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.02.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.2197 of 2022

and

Crl.M.P(MD) No.1776 of 2022

1. Sutharson
2. Selva Jaslin @ Selva Jaslin
3. Raja Jebastin @ Jabastin
4. Jeya Joseph John
5. Rajan

... Petitioners/
Accused Persons No.1 to 5

Vs

1. The Sub Inspector of Police
Suchindran Police Station
Kanyakumari District

... 1st Respondent/Complainant

2. Annantha Vasanthi

...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. 533 of 2021 on the file of the first respondent police and quash the same.

For Petitioner	:	Mr.G.Anto prince
For Respondent	:	Mr.R.M.Anbunithi
No.1		Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No. 533 of 2021 on the file of the first respondent police.

2. The case of the prosecution is that the construction work for a two wheeler shed on behalf of Keelakrishnanputhur CSI Church committee had been alleged to have the chances for causing damages to the walls of the property of the defacto complainant. Consequently the defacto complainant has sent legal notice and also initiated legal proceedings. on 12.12.2021 around 10.00 it has been alleged that the first accused had defamed the defacto complainant's husband stating that he has been attempting to grab the compound



wall of the church committee. Correspondingly the defacto complainant had defended for the alleged statement. Therefore all the five accused persons said to have assaulted the defacto complainant, pulled her hair, tore her dress, defamed and thereby attempted to murder her. Further the accused persons alleged to have assaulted two other persons who came to save the defacto complainant, hence the present complaint has been lodged.

3. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No. 533 of 2021 for the offences under Sections 147,323,506(i) of IPC and Section 4 of TNPHW Act as against the petitioners.

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 petitioners, 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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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 respondent police is directed to complete the investigation and file final report before



the concerned Magistrate, within a period of four weeks from the date of receipt of a copy of this Order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl.Side)

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/ /2022

Sub Assistant Registrar(CS)

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To

1. The Sub Inspector of Police
Suchindran Police Station
Kanyakumari District
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

COPY TO:-

THE JUDGE,
THE ADDITIONAL MAHILA COURT,
(MAGISTRATE LEVEL),
NAGERCOIL.

+1 CC to M/s.G.ANTO PRINCE, Advocate (SR-4678[F] dated 08/02/2022)
Crl.O.P. (MD)No.2197 of 2022
and
Crl.M.P (MD) No.1776 of 2022
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PR (CO)

GC (15.02.2022) 4P 5C