



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2022

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P(MD)No.2974 of 2022

1.A.Saranika
2.Tamilarasi

... Petitioners/
Accused Nos.1 & 2

Vs.

1.The State represented by
The Inspector of Police,
Cumbum North Police Station,
Cumbum,
Theni District.
(Crime No.16 of 2022)

... 1st Respondent/Complainant

2. K.Honestraj

... 2nd Respondent/
Defacto Complainant

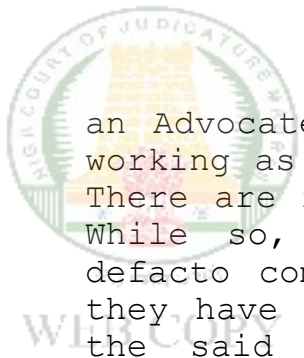
Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to the case registered in First Information Report in Crime No. 16 of 2022 on the file of the first respondent and quash the same as illegal.

For Petitioners : Mr.M.Eswaran
For Respondents : Mr.B.Thanga Aravindh
Government Advocate(Crl.Side) for R.1

ORDER

This Criminal Original Petition has been filed to quash the FIR as against the petitioners/ Accused Nos.1 and 2 in Crime No. 16 of 2022 on the file of the first respondent for the alleged offences under Sections 420 and 506(1) IPC.

2. The learned counsel appearing for the petitioners would submit that he already returned the bundle to the petitioner and also given a change of vakalath. Even then, the petitioners failed to represent on their behalf before this Court. That apart, on perusal of the FIR, it is seen that the defacto complainant has completed his Law Degree, but he could not get his name enrolled as



an Advocate. He has been married to M.Yogeshree and she has been working as an Executive Officer and posted at Kanyakumari District. There are no issues to the defacto complainant out of such wedlock. While so, some differences of opinion have arisen between the defacto complainant and his wife. Hence, both were separated and they have been residing separately. He would also submit that in the said circumstances, the first petitioner and the defacto complainant were school friends during their school days. Further, the first petitioner has got married to one Jagadeesan of Cumbum Village, Theni District. In fact, there are no contacts between the defacto complainant and the said first petitioner. While so, during 2014, there had been an occasion that the first petitioner and the defacto complainant could meet each other through the phones often. During such period, they developed friendship and the first petitioner had informed the defacto complainant that she was married with the above said Jagadeesan and out of such wedlock, they were blessed with a male child and thereafter, there are some differences of opinion arisen in their marital life, resulting in which, the said Jagadeesan has left the first petitioner and the male child and went to abroad for avocation and also informed that there was a mutual consent divorce between them.

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. 16 of 2022 for the offences under Sections 420 and 506(1) IPC as against the petitioners.

4.The learned Government Advocate (Criminal Side) would submit that the investigation is almost 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 **CrI.A.No.255 of 2019** dated **12.02.2019 - Sau. Kamal Shivaji Pokarnekhar vs. the State of Maharashtra & ors.**, as follows:-

<https://hcservices.ecourts.gov.in/hcservices/>



"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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7.....

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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 first 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.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mga

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,
Cumbum North Police Station,
Cumbum,
Theni District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P (MD)No.2974 of 2022
01.03.2022

MGJ(24.03.2022) 4P 3C