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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 07.03.2022
CORAM:
THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN
Crl.O.P.(MD)No.2603 of 2020
in
Crl.M.P.(MD)No.1357 of 2020

1. Seeni Bros Khan

2. Seeni Najeer Ali ...Petitioners/Accused 2 &3

Vs.

1.State through,
The Inspector of Police,
Kennikkarai Police Station,
Ramanathapuram District.
(Crime No. 491/2019) ...1st Respondent/Complainant

2. Mohamed Pathiyulla ...2nd Respondents/
Defacto Complainant

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in Crime No.491 of 2019 on the file of 1st respondent dated 29.12.2019 and quash the same as illegal.

For Petitioner : Mr.J.M.Hassanul Bazari
For R1 : Mr.B.Thanga Aravindh
Government Advocate (Criminal Side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No. 491 of 2019 on the file of the first respondent police.

2. The prosecution case is that on 28.12.2019 at 4.00PM, the first accused teased his brother using filthy language and assaulted him. The same was questioned by the defacto complainant, due to which, the petitioners assaulted the defacto complainant by using weapons and caused injury. In that regard a case in Crime No.491 of 2019 was registered against the petitioners under Sections 341, 294 (b), 323, 324, 336, 506(i) IPC.

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. 491 of 2019 for the offences under Sections 341, 294(b), 323, 324, 336, 506(i)

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IPC as against the petitioners.

4.The learned Government Advocate (Crl.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 ***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*

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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 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. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PNM

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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 Chief Judicial Magistrate, Ramnad.

2.The Inspector of Police,
Kennikkarai Police Station,
Ramanathapuram District.

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

Crl.O.P.(MD)No.2603 of 2020
in Crl.M.P.(MD)No.1357 of 2020
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