



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.2749 of 2022

and

Crl.M.P (MD) No.2059 of 2022

Hariharan

... Petitioner/Accused No.6

Vs

1. The State rep.by
The Inspector of Police
Murapanadu Police Station
Thoothukudi District

... Respondent/Complainant

2. M.Abubucker Siddique

... 2nd Respondent/Defacto
Complainant

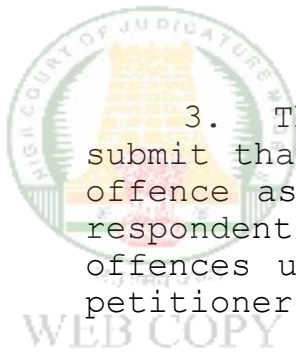
Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to Call for the records pertaining to the Crime No.185 of 2021 on the file of the first respondent police and quash the same in so far as the petitioner/A6 is concerned.

For Petitioner : Mr.G.THALAIMUTHARASU, Advocate
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.185 of 2021 on the file of the first respondent police

2. The case of the prosecution is that the defacto complainant lodged a complaint with the first respondent herein alleging that his mother Aashia had purchased 31/2 cents of land from one Umardakad about five years aback at Arabath Nagar, Aarampannai. After purchase she had allegedly constructed a small shop/house and running a mutton soup stall therein. It is further alleged that one Mohammed Aashik and his family members have entered into said property and had a wordy quarrel with the second respondent inconenction with the said property during the year 2015 and at that time two cases have been registered in Crime Nos.323 of 2015 and 390 of 2020 on the file of the first respondent police. It is further alleged that in order to grab the property the above said Mohammed Ashik and his family members have been trying to create forged documents and they have illegally trespassed into the said property of the second respondent and also allegedly threatened him with dire consequences. 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. Without any base, the first respondent police registered a case in Crime No.185 of 2021 for the offences under Sections 147,427,323,506(i) of IPC as against the petitioner.

4. The learned Additional Public Prosecutor 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 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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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."

7. 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.

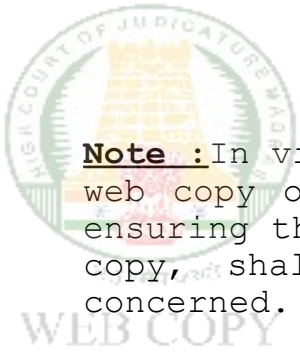
Sd/-

Assistant Registrar (Writs)

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/ /2022

Sub Assistant Registrar(CS)



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
Murapanadu Police Station
Thoothukudi District
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.2749 of 2022
and
Crl.M.P (MD) No.2059 of 2022
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