



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.2481 of 2022

and

Crl.M.P(MD) No.1833 of 2022

WEB COPY

Venkatesh

... Petitioner/Accused
Vs.

1. The Inspector of Police
Tenkasi Police Station
Tenkasi, Tenkasi District
(Crime No. 445 of 2020)

... Respondent/Complainant

2. Arunachalam

... Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records in Cr.No. 445 of 2020 on the file of the 1st respondent police and quash the same

For Petitioner	:	Mr. N.K.Arul Muruganantham
For Respondents	:	Mr.R.M.Anbunithi
No.1		Additional Public Prosecutor

O R D E R

This Criminal Original petition has been filed to call for the records in Cr.No. 445 of 2020 on the file of the 1st respondent police and quash the same.

2. The case of the prosecution is that on 23.11.2020 the defacto complainant appeared before the respondent, impersonated himself as an advocate and also President of Elayabaratham Sangam and also received a sum of Rs.50,000/- and cheated one Manikandan.

3. The learned Counsel appearing for the petitioner would submit that the petitioner subsequently completed law degree and he is unable to enroll himself as an advocate due to the pendency of the First Information Report registered in Crime No.445 of 2020. He would further submit that he has no locus as alleged in the complaint since he is not an aggrieved person.

4. The learned Additional Public Prosecutor would submit that there are specific allegations against the petitioner and the petitioner has made out the case under Section 420 of IPC and the investigation is still pending.

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."

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 eight weeks from the date of receipt of a copy of this Order. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar (LA&MC)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Chief Judicial Magistrate,
Tirunelveli.

2.The Inspector of Police
Tenkasi Police Station
Tenkasi, Tenkasi District



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

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