



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.2885 of 2022

WEB COPY

Arul @ Arul Stephen

... Petitioner/Accused No.5

Vs.

1. The Inspector of Police,
Colachel Police Station,
Kanyakumari District.
(Crime No.312 of 2019)

...1st Respondent/Complainant

2. Bibin Deva

...2nd Respondent/Defacto
Complainant

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pertaining to F.I.R in Crime No.312/2019 U/s. 147, 148, 294(b), 324, 506(2) of IPC dated 02.12.2019 on the file of the 1st Respondent police and quash the same as illegal as against the petitioner/accused.

For Petitioner : Mr.D.Balamurugapandi

For R1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

For R2 : Mr.S.Sundarapandian

ORDER

This Criminal Original Petition has been filed to quash the F.I.R in Crime No.312 of 2019, dated 02.12.2019 on the file of the 1st Respondent police

2.The case of the prosecution is that the accused used to consume alcohol near the defacto complainant's house and use filthy languages. The defacto complainant had frequently questioned the accused for his nuisance. On 01.12.2019, the accused called the defacto complainant for compromise but suddenly started to beat him. Therefore, the defacto complainant lodged a complaint before the first respondent and FIR had been registered in Crime No.312/2019 for the offences under Sections 47, 148, 294(b), 324, 506(2) of IPC.

3.Though the learned Counsel appearing for the petitioner has filed a memo of compromise between the petitioner and the second respondent, this Court had given three opportunities for the



presence of the parties. However, the parties never appeared before this Court to record their compromise, it shows that they have not entered into any compromise and the dispute continues between them.

4. 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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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."

5. With the above observation, this criminal original petition is dismissed. However, the petitioner is at liberty to file a fresh petition to quash the FIR on compromise.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

Enclose copy of Joint Compromise memo.

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

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