



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD) No.3881 of 2022

and Crl.M.P(MD)No.2833 of 2022

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1. Parameshwari
2. A.Ramya

...Petitioners/Accused No 1 & 2

Vs.

1. The State Represented by
The Sub-Inspector of Police
Seithur Rural Police station
Virudhunagar District
(Crime No.185/2021)

... Respondent/Complainant

2. Mariammal

...Respondent/Defacto Complainant

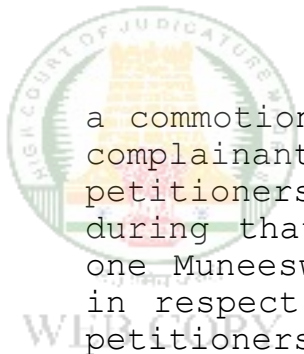
PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to the proceedings of the First Information Report in Crime No.185/2021 on the file of the 1st respondent police and quash the same as against the petitioners herein.

For Petitioner : M/s.K.Kannan
For Respondents : Mr.R.M.Anbunithi
No.1 Additional Public Prosecutor

ORDER

This petition has been filed to quash the proceedings in Crime No.185/2021 on the file of the 1st respondent police.

2. It is alleged in the First Information Report that 22 years back, the house site being owned to one Chellathai, who is none other than the mother of the 1st petitioner herein, was purchased by the 2nd respondent/defacto complainant, whereas, no registration was effected and subsequently, the house, which was constructed by the 2nd respondent/defacto complainant and the 2nd respondent/defacto complainant and her son one Muneeswaran have been residing there and the said Chellathai died and thereafter, the 2nd respondent/defacto complainant was asked to vacated the premises, since no registration of sale was done and the 2nd respondent/defacto complainant was asked to give a sum of Rs.2,05,000/- for registering the sale deed by the 1st petitioner herein and on believing the version of the 1st petitioner herein, the 2nd respondent/defacto complainant gave the said amount to the 1st petitioner, whereas the 1st petitioner purposefully delayed to execute the sale deed and thereby, there was



a commotion between the 1st petitioner and the 2nd petitioner/defacto complainant and in the result, on 08.12.2021 at about 9.30 a.m., the petitioners herein abused the 2nd respondent/defacto complainant and during that time the son of the 2nd respondent/defacto complainant one Muneeswaran got angry on the 2nd respondent/defacto complainant in respect of non-registration of any sale deed and while so, the petitioners herein abused the 2nd respondent/defacto complainant and her son and they pushed them down and therebym the 2nd respondent/defacto complainant got pain and subsequently, again the petitioners herein threatened the 2nd respondent/defacto complainant with dire consequences and based on the complaint of the 2nd respondent/defacto complainant, the 1st respondent police have registered the case U/s.294(b), 323, 506(i) of IP in Crime No.185/2021.

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.

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 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.

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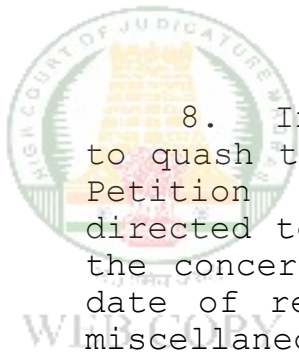
5. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to 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."



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

Sd/-

Assistant Registrar (CS-III)

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/ /2022

Sub Assistant Registrar(CS)

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To

1. The Sub-Inspector of Police
Seithur Rural Police station
Virudhunagar District

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

Crl.O.P.(MD) No.3881 of 2022
25.02.2022

ck(CO)

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