



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.3030 of 2020

in

Crl.M.P.(MD)No.1594 of 2020

1. Johnson @ Johnson Sathiya Selvaraj
2. Partheeban @ Parthiban
3. Muruganantham @ Muruganandam ... Petitioners

Vs.

1. State represented by
The Inspector of Police,
District Crime Branch (DCB Sivagangai),
Sivagangai-630 562. ... 1st Respondent / Complainant
2. Ravichandran ... 2nd Respondent/ Defacto Complainant

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C.to call for the records of the impugned FIR bearing Crime No.19 of 2019, dated 22.06.2019, on the file of the 1st respondent and quash the same as against the petitioners 1 to 3/Accused Nos.9 to 11.

For Petitioner: Mr.S.V.Pravin Rathinam

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. 19 of 2019 on the file of the first respondent police.

2. The prosecution case is that the defacto complainant is the distributor of Hindustan Unilever Limited for Karaikudi area and he appointed the first accused as his Manager to take care of the affairs of the distributorship business in Karaikudi and he has



invested an amount to the tune of Rs.1,31 Crores in the said business. When the company reported that his performance is weak, he conducted an audit in his business, in which, he found that the first accused along with the defacto complainant's employees, viz., A2 to A8, misappropriated his funds to the tune of Rs.2.82 crores, which is inclusive of his investment amount, ie., Rs.1,31 crores. In that regard a case in Crime No.19 of 2019 was registered against the petitioners under Sections 403, 406, 477(A), 420, 294(b), 506 (2), 120(B) 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. 19 of 2019 for the offences under Sections 403, 406, 477(A), 420, 294(b), 506 (2), 120(B) IPC as against the petitioners.

4.The learned Government Advocate (Criminal 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.

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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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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

<https://hcservices.ecourts.gov.in/hcservices/>



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.

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Sd/-
Assistant Registrar(AE)

/TRUE COPY/

/ /2022
Sub Assistant Registrar(CS)

PNM

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,
District Crime Branch (DCB Sivagangai),
Sivagangai-630 562.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to MR.S.V.PRAVIN RATHINAM, Advocate (SR-10891[F] dated 09/03/2022)

ORDER IN
Crl.O.P. (MD)No.3030 of 2020
in
Crl.M.P. (MD)No.1594 of 2020
07.03.2022

MK/18.03.2022/4P/4C