



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2022

CORAM:

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

Crl.O.P.(MD) No.3638 of 2022

and Crl.M.P(MD) No.2670 of 2022

1. Saravanan

2. Nambi

... Petitioners

Vs.

1. The State Rep.by

Sub-Inspector of Police

Srivaigundam Police Station

(Crime No.214/19)

2. Karuvelaraj

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to quash the FIR in Crime No.214 of 2019 dated 12.11.2019 on the file of Sub-Inspector of Police, Srivaigundam Police Station and quash the same in so far as the petitioners are concerned.

For Petitioners : M/s. Thalaimutharasu G

For Respondents : Mr.R.M.Anbunithi

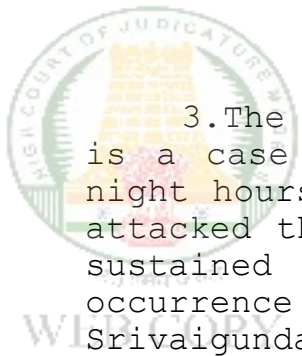
No.1

Additional Public Prosecutor

ORDER

This petition has been filed to quash the proceedings in Crime No. 214 of 2019 on the file of the first respondent police.

2.The 2nd respondent defacto complainant stated in his complaint that he is working as Head Constable attached to the Eral Police Station. There was a dispute between the defacto complainant and the petitioner family with regard to land and petitioners herein and they used to quarrel with him very often. On 11.11.2019 at about 9.30 PM the brother of the defacto complainant informed him that the 1st petitioner herein dashed on his by riding motor bike. Immediately the defacto complainant come out from his house, on seeing the defacto complainant the 1st petitioner herein abused him in filthy language by saying whether he came in support of his brother and by saying so, he took a knife from his hip and stabbed the defacto complainant on his left chest and he also caused injury on his right cheek. The 2nd petitioner alleged to have beat the defacto complainant on his left hand wrist by using stick and he sustained injury on his right hand shoulder. Thereafter the defacto complainant raised hue and cry, on seeing the noise his relatives came there, then it is alleged after threatening the defacto complainant with dire consequences the petitioner 1 and 2 left the scene of occurrence. Thereafter the defacto complainant was admitted in hospital.



3.The learned counsel for the petitioners would submit that it is a case in counter on the very same day i.e. On 11.11.2019 at night hours, the defacto complainant and his brother and two others attacked the 1st petitioner by using knife, as a result of which he sustained injury on his head and forehead. Immediately after the occurrence the 1st petitioner was taken to Government Hospital, Srivaigundam. As his condition was very serious he was referred to High Ground Government Hospital Tirunelveli and he was admitted as inpatient in the said hospital for about 15 days. He would also submit that the 1st petitioner sustained injury at the hands of the defacto complainant and his relatives on 11.11.2019 at 9.30 PM and based on the complaint given by the 1st petitioner the respondent police registered the case against the defacto complainant and his son and two others in Crime No.213 of 2019 u/s 147, 148, 342, 323, 324 and 307 of IPC.

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 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.

6.....

7.....

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/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



To

1.The Sub-Inspector of Police
Srivaigundam Police Station,
Thoothukudi District.

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

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-8283[F] dated
24/02/2022)

CrI.O.P.(MD) No.3638 of 2022
22.02.2022

RS (04.03.2022) 4P-4C