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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 04.03.2022
CORAM:
THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**
Crl.O.P.(MD) No.4286 of 2022

Paul Thomas ...Petitioner / Accused No.1
Vs.

1. The Inspector of Police,
Sanarpatti Police Station,
Dindigul District.
(Crime No. 389 of 2015)... 1st Respondent/Complainant

2. S.Arokiyasmay ...2nd Respondent/Defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the records relating to the impugned FIR in Crime No. 389 of 2015 on the file of the 1st respondent police and quash the same as illegal against the petitioner.

For Petitioner : Mr.S.Ukkara Pandian
For R1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

This petition has been filed seeking a direction to quash the FIR in Crime No. 389 of 2015, on the file of the first respondent police.

2.The case of the prosecution is that in the year 2010, the defacto complainant had sold his property for a sum of Rs.13,00,000/- and deposited Rs.5,00,000/- in the joint account of the defacto complainant and Maryajesuraj, who is the son of the defacto complainant and divided the balance amount to his son and daughters. The petitioner herein is the grandson of the defacto complainant and Samyraj is the father of the petitioner. Samyraj promised to register the land in S.Nos.529/16, 529/17 situated in Koovanuthur Village, Odaipatti in the name of the defacto complainant. Therefore, the defacto complainant had withdrawn the said amount without his son's knowledge on 28.12.2013 and given to the petitioner and samyraj in the presence of his wife and brother in law of the defacto complainant. But, on 31.12.2013, the said land had been registered in the name of the petitioner before the Sanarpatti Registrar Office in Doc.No.3152/2013 and in addition to that the petitioner also got Rs.2,50,000/- from one maryajesuraj, who is the son of the defacto complainant and two sovereign gold chain from the wife of the defacto complainant. Hence, the defacto complainant had repeatedly approached the petitioner to recover

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amount and gold. Finally, the defacto complainant lodged a complaint on 14.05.2015, so that the petitioner agreed to return two sovereign gold and a sum of Rs.50,000/- to the defacto complainant and promised to return the balance amount in installment, if not returned then, make a complaint on it. On 15.09.2015, the petitioner and other accused in crime No.389 of 2015 were given life threat to the defacto complainant along with weapons and used filthy language. Hence, the above said FIR has been registered under Sections 420, 294(b) and 506(ii) of IPC.

3.The learned Counsel appearing for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No. 389 of 2015 for the offences under Sections 420, 294(b) and 506(ii) of IPC.

4.The learned Additional Public Prosecutor would submit that based on the complaint lodged by the defacto complainant, first respondent registered FIR in Crime No.389 of 2015 and for the same, investigation is 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.,*** wherein, it has been held 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*

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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 first respondent police is

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directed to complete the investigation and file final report before the concerned Magistrate, within a period of four weeks from the date of receipt of a copy of the Order.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

lr

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,
   Sanarpatti Police Station,
   Dindigul District.

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

Crl.O.P.(MD) No.4286 of 2022
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