



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P(MD)No.4471 of 2022

&

Crl.M.P(MD)No.3175 of 2022

WEB COPY

B.Venkateswaralu

... Petitioner/Accused No.3

Vs.

1. The State represented by
The Inspector of Police,
District Crime Branch,
Dindigul District.
(In Crime No.41 of 2021)

... 1st Respondent/Complainant

2. Kalavathi

... 2nd Respondent/
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records relating to the impugned FIR in Crime No. 41 of 2021 on the file of the first respondent and quash the same as illegal insofar as the petitioner is concerned.

For Petitioner : Mr.M.E.Ilango

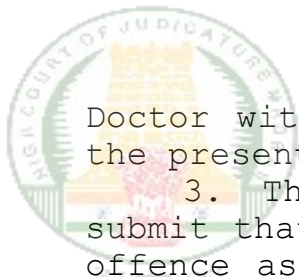
For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Criminal Side)
for R.1

Mr.Mahesh Kumaravel for R.2

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No. 41 of 2021, on the file of the first respondent.

2. The case of the prosecution is that the defacto complainant and the first accused, one, Mr.Kannan are siblings. They are born to their father, namely, Mr..Raju Naidu. The said Mr.Raju Naidu was admitted in AR Hospital in Madurai for his ailments and died on 12.02.2012. At the intimation of the Hospital authorities, Death Certificate came to be issued by the Madurai Corporation. While the matter stood thus, instead of conducting the last rites of his father at their native place at Gopalpatti, the same was done at the residence of the 1st accused. Further, the defacto complainant when collected particulars for filing a civil suit claiming partition against her brother viz. Accused No.1 herein, she came to know that another Death Certificate had also been issued at Dindigul District and the same came to be issued at the instance of the Accused No.2 /



Doctor with the help of the petitioner, who is his friend. Hence the present FIR came to be filed against the petitioner herein.

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. 41 of 2021 as against the petitioner.

4. The learned Government Advocate (Criminal Side) would submit that the investigation is 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 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.**, 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



To

1. The Inspector of Police,
District Crime Branch,
Dindigul District.

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

+1 CC to M/s.M.E. ILANGO, Advocate (SR-18656[F] dated 13/04/2022)

+1 CC to M/s.M. MAKESH KUMARAVEL, Advocate (SR-18767[F] dated
13/04/2022)

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MGJ(06.05.2022) 4P 5C