



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2022

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P(MD)No.4652 of 2022

in

Crl.M.P(MD)No.3284 of 2022

G.Athiyappan

... Petitioner/ Accused No.1

Vs.

1. The Sub Inspector of police,
Sivakasi East Police Station,
Virudhunagar District.
(Crime No.875 of 2020)

... 1st Respondent/
Complainant

2. Muthumari

... 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 regisitered in Crime No.875 of 2020, dated 16.08.2020 on the file of the first respondent and quash the same insofar as the petitioner / Accused No.1 is concerned.

For Petitioner : Mr.C.Jeyaprakash

For Respondents : Mr.R.M.Anbunithi

Additional Public Prosecutor
(Criminal Side) for R.1

Mr.E.Marish Kumar for R.2

ORDER

The Criminal Original Petition has been filed to quash the FIR as against the petitioner in Crime No.875 of 2020 on the file of the first respondent for the offences under Sections 420 and 506(i) IPC.

2.The case of the prosecution is that the defacto complainant, namely, Muthumari who is the second respondent herein had lodged a complaint before the Superintendent of Police, Virudhunagar District as against the petitioner and three others by alleging that she approached the petitioner along with her husband Palanichamy, one Anand and one Velmurugan (A.2), Broker, in order to purchase the



land belonged to 10 persons and he is the power agent, all the original documents were with the custody of R.C.Krishnamurthy(A.3). Further the total consideration amount for the land has been fixed at Rs.81,27,000/- (Rupees Eighty One Lakhs and Twenty Seven Thousand only). On 07.07.2018, Rs,5,00,000/- (Rupees Five Lakhs only) had been paid as advance to A.1 accordingly, an agreement was written. Subsequently, Rs.36,80,000/- (Rupees Thirty Six Lakhs and Eighty Thousand only) had been given to A.3 / R.C.Krishnamurthy by way of Demand Draft and further Rs.44,40,800/- (Rupees Forty Four Lakhs Forty Thousand and Eight Hundred only) along with Rs.4,11,500/- (Rupees Four Lakhs Eleven Thousand and Five Hundred only) towards Registration expense. Totally Rs.85,38,500/- (Rupees Eighty Five Lakhs Thirty Eight Thousand and Five Hundred only) has been given to A.3 / R.C.Krishnamurthy. Thereafter, the said A.3 / R.C.Krishnamurthy and his son did not executed sale deed. When the same was questioned they threatened her. The said complaint has been forwarded to the first respondent by the Superintendent of Police. Thereafter, the case has been registered in the above said crime number by the first respondent police.

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.875 of 2020 for the offences under Sections 420 and 506(i) IPC as against the petitioner.

4.The learned Additional Public Prosecutor (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 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 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.....

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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."

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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 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(AD I)

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/ /2022
Sub Assistant Registrar(CS)

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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 Sub Inspector of police,
Sivakasi East Police Station,
Virudhunagar District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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MK/30.03.2022/4P/3C