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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2022

CORAM:

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

Crl.O.P.(MD) No.4933 of 2022

and

Crl.M.P(MD) No.3494 of 2022

Mohamed Riyas Khan

...Petitioner/Accused No.6

Vs.

1. The Sub Inspector of Police,
Kenikkaria Police Station,
Ramanathapuram District.
(Crime No. 594 of 2020)

...1st Respondent/1st Respondent

2.Manikanda Guru

...2nd Respondent/
Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to FIR in Crime No. 594 of 2020 dt. 27.09.2020 on the file of the Inspector of Police, Keenikarai Police station, Ramanathapuram district and quash the same as against the petitioner / Accused 6

For Petitioner : Mrs.S.Prabha

For Respondents : Mr.R.M.Anbunithi
No.1 Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No. 594 of 2020 on the file of the first respondent police.

2. The case of the prosecution is that the defacto complainant has given Rs.500/- to the first accused and when he asked for the said amount, the accused told that he was out of station . On 27.09.2020 at about 7.15 pm., the defacto complainant and his friends went to Naganathapuram Mariamman , he met the accused, when the defacto complainant questioned the first accused, to returned back his money all the accused said to have beaten the defacto complainant and abused him in filthy language. With the above allegations, the respondent police registered the above FIR.

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. She would further submit that at the time of registration of the First Information Report, the



petitioner is aged about only 17 years and he is no way connected with the said occurrence. She would further submit that the respondent police knowing that the petitioner is juvenile at the time of occurrence, without considering the same, has registered the present case.

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4. The learned Additional Public Prosecutor 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 to be noted that no bar to register the case as against the Juvenile and there are specific allegations as against the petitioner to attract the said offences. 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.**, wherein it is 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 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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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 twelve weeks from the date of receipt of a copy of this Order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl Side)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)



To

1. The Sub Inspector of Police,
Kenikkaria Police Station,
Ramanathapuram District.

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

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and
CrI.M.P(MD) No.3494 of 2022
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MGJ(28.03.2022) 4P 3C