



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2022

CORAM:

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

Crl.O.P. (MD)No.5103 of 2022

and

Crl.M.P (MD) No.3587 of 2022

WEB COPY

Mounesh

... Petitioner/Accused 4

Vs

1. State through

The Inspector of Police,

Fort Police Station,

Trichy District.

(Crime No.1522 of 2021)

... 1st Respondent/Complainant

2. Pandi

... 2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in Crime No.1522/2021 on the file of R1 police and to quash the same in so far as the petitioner/accused no.4 concern

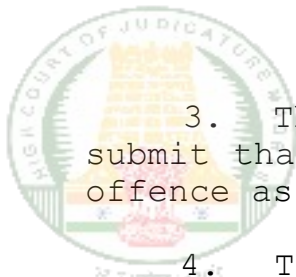
For Petitioner : Mr.P.Subba Reddy

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

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No. 1552 of 2021 on the file of the first respondent police.

2. The case of the prosecution is that when the defacto complainant inspection on 23.12.2021 at about 2.00 pm., at various places in Trichy they found several packages of prohibited tobacco products, seized the same and also spot fine was levied to shop owners. Thereafter on the next day 24.12.2021 it was received from the public of the secret information that the several bags of prohibited tobacco products was available at VRL logistics of lorry booking office. At about 03.00 am., on 24.12.2021 and defacto complainant and other district level Gazette Officer of food safety department was conducted and at that time 10 bags was loaded in an auto bearing Reg. No. TN 12 AA 9600 by the third accused. On seeing the same, the defacto complainant tried to collect information from A3, but he along with other accused escaped from the scene of occurrence. 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.

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 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 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.

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 petitioner is directed to produce material evidence to show that the her is only the Manager of the logistics and on receipt of the same 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.

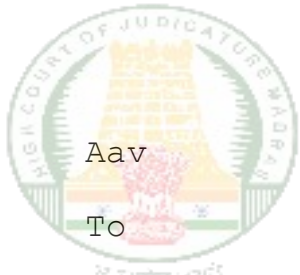
Sd/-

Assistant Registrar (CS I)

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/ /2022

Sub Assistant Registrar(CS)



1.The Chief Judicial Magistrate,
Trichy.

2.The Inspector of Police,
Fort Police Station,
Trichy District.

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

+1 CC to M/s.P.SUBBA REDDY, Advocate (SR-13315[F] dated
21/03/2022)

Crl.O.P.(MD)No.5103 of 2022
and
Crl.M.P(MD) No.3587 of 2022

18.03.2022

SS/25.03.2022 : 4P/5C