



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2022

CORAM:

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

Crl.O.P.(MD) No.5286 of 2022

and

Crl.M.P(MD) No.3752 of 2022

1.Gandhi
2.Revathi
3.Seenivasan
4.Sridhar Mohan

...Petitioners/Accused Nos.1,2,4 & 5.

Vs.

1. State Represented by
The Inspector of Police,
Palanichettipatti Police Station,
Theni District and another.
(Crime No.55/2022) ...1st Respondent

2.P.S.Sakkamuthu ...2nd Respondent/
Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to the impugned FIR in Crime No.55/2022 dated 06/02/2022 on the file of R1 police and quash the same as illegal in so far as the Petitioners are concerned.

For Petitioner : Mr.R.Murugan

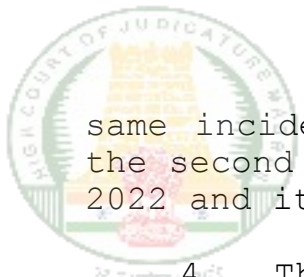
For Respondent : Mr.R.M.Anbunithi
No.1 Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No. 55 of 2022 on the file of the first respondent police.

2. The Case of the prosecution is that on 06.02.2022 when the defacto complainant was working in the field, the adjacent land owner said to have taken the photo of the defacto complainant, abused her also attacked her with knife, due to which she sustained injuries. When the second respondent tried to escape from there, the first petitioner said to have threatened her and chased her with his two wheeler bearing Reg. No. TN 60 D 8732, while she was running she fell down and sustained injuries, hence he case came to be registered.

3. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. Further for the very



same incident, the petitioner has also lodged complaint as against the second respondent and the same was registered in Crime No.54 of 2022 and it is also pending.

4. The learned Additional Public Prosecutor would submit that on the complaint given by the counter parties a counter case has been registered in Crime No. 54 of 2022 and the investigation is still 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 petitioners, 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 Pokarnekhar 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



WEB COPY

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 first respondent is directed to complete the investigation in both the Crime Nos. 54 of 2022 and 55 of 2022 following the police standing order for case and counter case and file a final report within a period of twelve weeks from the date of receipt of copy of this Order, before the jurisdiction Magistrate. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



To

1. The Chief Judicial Magistrate, Theni.

2. The Inspector of Police,
Palanichettipatti Police Station,
Theni District and another.

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

Crl.O.P.(MD) No.5286 of 2022
and

Crl.M.P(MD) No.3752 of 2022
22.03.2022

MGJ(30.03.2022) 4P 4C