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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.5106 of 2022

and

Crl.M.P(MD) No.3591 of 2022

Rakesh

... Petitioner/sole Accused

Vs

1.The State

The Sub Inspector of Police,
Pappakudi Police Station,
Tirunelveli District.
(Crime No.414 of 2021)

2. M.Antony Savarimuthu

Sub Inspector of Police,
Pappakudi Police Station,
Tirunelveli District.

... Respondents/Defacto
complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records from R1 police in Crime No.414/2021, and quash the same as devoid of merits against the petitioner

For Petitioner : Mr.A.Haja Mohammed

For Respondent : Mr.R.M.Anbunithi
No.1 & 2 Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No. 414 of 2021 on the file of the first respondent police.

2. The case of the prosecution is that the petitioner along with other accused were found in illegal possession of thick object about 3kg as in honey colour in a yellow bag. When the same was enquired by the respondent police, he informed that it is a medicine and sell the same at high price. 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.



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.

"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

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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)

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/ /2022

Sub Assistant Registrar (CS)

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To

- 1.The Chief Judicial Magistrate,
Tirunelveli, Tirunelveli District.
- 2.The Sub Inspector of Police,
Pappakudi Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.5106 of 2022
and
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RK(28/03/2022) 4P 4C