



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2022

CORAM:

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

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Crl.O.P.(MD)No.5191 of 2022

and

Crl.M.P(MD) No.3649 of 2022

S.Ilango

... Petitioner

Vs

1. State represented by
The Inspector of Police,
District Crime Branch,
Trichy District.
(In Crime No.2 of 2021)

2. V.Aravind @ Vignesh

... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pertaining to the case registered in FIR Report in Crime No.2/2021 on the file of R1 and quash the same in respect of the Petitioner as illegal.

For Petitioner : Mr.G.Anto Prince

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. 2 of 2021 on the file of the first respondent police.

2. The case of the prosecution is that the defacto complainant is running a steel rolling mill in the name of Vijaya Steels. He purchased this company through the first accused Ilango. Since the de facto complainant had no experience in running a steel rolling mill and the accused Ilango is an experienced person in this field, Ilango undertook to guide him in the business and was working with him. After September 2018, he wanted an investment of Rs.25,00,000/-. Accordingly, the defacto complainant invested Rs.25,00,000/-. He spent this money on paying advance to get steel scrap and paying advance salary to workers. Again, at the end of September 2019, he wanted the defacto complainant to invest Rs.40,00,000/- and the defacto complainant invested Rs.30,00,000/-. He undertook to sell the iron rods and give money. There was a sum of Rs.35,79,987/- outstanding in connection with the sale of iron rods. When he asked him about this outstanding amount, the accused



told him not to worry about that amount and he would give him double the amount. Since the defacto complainant had no experience in this field, he believed his words and acted according to his dictates. Meanwhile, the persons who supplied the steel scrap materials and workers started giving problems asking for their money and salary. The accused Ilango promised to set right the payment issue with the money available with him. The defacto complainant again invested a sum of Rs.25,00,000/- towards purchase of scrap materials and towards payment of salary to workers. One worker died due to illness in November 2018 inside the factory. The Accused Ilango told him that the defacto complainant should pay Rs.25,00,000/-, else they have to go to prison, if a complaint is given by the deceased worker's family. Then he asked him to pay Rs.15,00,000/-. Accordingly, the defacto complainant paid Rs.15,00,000/-. On enquiry, it revealed that only Rs.2,00,000/- was paid to the family of the deceased. The debt burden of Vijaya Steels has gone up more than Rs.73,00,000/-. The accused Ilango told him that since there is huge debt, he wanted to stop the business and promised to return the money after selling scrap materials and steel rods. He undertook to effect the sale through his concern Eswaran Steels. He purchased it for Rs.18,93,782/-, but sold it for Rs.30,00,000/-. The defacto complainant had also spent Rs.9,23,882/- towards electricity consumption. The sale for 8 months is Rs.89,65,756/-. Even if it is calculated at 1% profit, he would have got a profit of Rs.89,657/-. However, he has a loan of Rs.92,87,414/-. On the other hand, the accused Ilango deposited a sum of Rs.10,00,000/- in the Canara Bank Account of his friend when the defacto complainant demanded his money, the accused in this case threatened to do away with him, if he demands money. Therefore, this case came to be registered.

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 Pokarnekhar vs. the State of Maharashtra & ors.**, wherein it is held as follows:-

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"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(CS-III)

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/ /2022

Sub Assistant Registrar(CS)

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To

- 1.The Inspector of Police,
District Crime Branch,
Trichy District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P.(MD)No.5191 of 2022
and
Crl.M.P(MD) No.3649 of 2022
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