



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2022

CORAM:

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

Crl.O.P.(MD) No.5498 of 2022

and

Crl.M.P(MD) No.3910 of 2022

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1.E.Pitchai
2.P.Murugan
3.M.Puliyammal
4.P.Muthukalai

...Petitioners/Accused 1, 2 3 & 4

Vs.

1. The State of Tamil Nadu,
Rep. by The Inspector of Police,
Vikkaramangalam Police Station,
Madurai District.
(Crime No. 546/2020)

... Respondent No.2/Complainant

2. Andichi

...Respondent No.2/Defacto Complainant

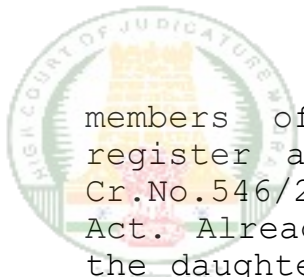
PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to the FIR in Crime No. 546 of 2020 on the file of the R1 dated 17.07.2020 and to quash the same.

For Petitioner : Mr.C.K.M.Appaji
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. 546 of 2020 on the file of the first respondent police.

2. The Case of the Prosecution is that on 16.07.2020 at about 3.30 pm the said Sekar and his daughter Madhavi had abused the 3rd petitioner Punniammal, the daughter in law of 1st petitioner, beaten up her neck with stick and when she fell down, they kicked her chest and threw stone on her leg. In this connection the 3rd petitioner preferred complaint before the 1st respondent police and a case was register in Crime No.545/2020 U/s 294(b), 323 IPC and section 4 of TNPHW Act. To counter suit the matter the 2nd respondent Aandichi, the daughter of Sekar had preferred a complaint against petitioners, alleging that on 16.07.2020 at about 3.45pm the family members of the Petitioners had assaulted the said Aandichi with a stick and caused bleeding injuries and also assaulted all the



members of the family. Consequently the 1st respondent herein register a case against the family member of the Petitioner in Cr.No.546/2020 U/s 294(b), 323, 506(ii) and section 4 of the TNPHW Act. Already on 22.11.2019 at about 3 pm when the Mrs.Pandiammal, the daughter in law of the 1st petitioner, her husband mother in law were working in the northern side of Arasu Maruthupatti road, Mr.Sekar, the father of the 2nd respondent, the realtor Karkodal and his wife Maruthai had trespassed into the land and attacked Mrs.Pandiammal with a wooden rod pelted stone on them and intimidated to kill her. In this connection Mrs.Pandiammal herein preferred complaint before the 1st respondent and 1st respondent herein registered a case against Karkodal, Maruthai and Sekar in Crime No.203/2019 U/s 447, 294(b), 506(ii)IPC. To counter suit the matter the Mr.Sekar herein preferred complaint against the petitioner alleging that on 22.11.2019 at about 3 pm, when the said Sekar along with Karkodal and his wife Maruthai were carrying on agricultural activities on their land, the family members of the petitioner came to the spot and abused the Sekar and men alleging that the mangoes from the mango tree and the agricultural equipments kept in the land were stolen away and thereby intimidated her. On the strength of the complaint, the 1st respondent herein registered a case against the family members of the petitioner in Crime No.204/2019 U/s 294(b), 506(ii) IPC.

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.

4. The learned Additional Public Prosecutor would submit that the investigation is almost 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 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 Pokarnekar vs. the State of Maharashtra & ors.**, where in it is held 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."

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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 eight weeks from the date of receipt of a copy of this Order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

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

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and
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nsn(CO)

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