



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2022

CORAM:

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

Crl.O.P.(MD) No.6773 of 2022

and

Crl.M.P(MD) No.4677 of 2022

1.Karuppasamy @ K.K
2.Deepak Kumar
3.Chelladurai
4.Sathiyaraj
5.Karuppasamy
6.Ramesh @ Paranthaman
7.Kannan
8.Gurusamy @ Idli Gurusamy
9.Gokula Prabu
10.Minor.Hari
(Rep. by his father natural guardian
Selvakumar)

...Petitioners

Vs.

1. State Represented by
The Inspector of Police,
Sendhmaram Police Station,
Tenkasi District.
(Crime No.339/2021)

2. Swarnam

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to FIR in Crime No. 339 of 2021 dated 18.10.2021 on the file of Inspector of Police, Sendhamaram, Tenkasi district and quash the same as against the petitioner's.

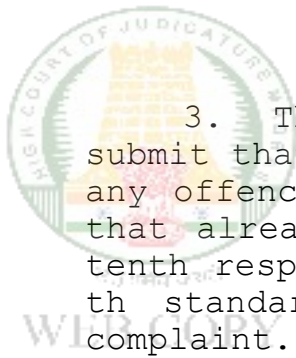
For Petitioners : Mr.S.Nirmal Aditya

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

2. The prosecution case is that the petitioners along with other accused persons conspired together and made a plan to destroy the trees in the field owned by the defacto complainant, hence the present 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. He would further submit that already civil dispute is pending between the parties and the tenth respondent herein is the minor school going boy studying 10 th standard and further there is a delay in the lodgement of complaint.

4. The learned Additional Public Prosecutor would submit that already this Court has ordered transfer of investigation from the file of the first respondent to the file of the Inspector of Police, Sankarankovil Police Station by an order dated 07.02.2022 in Crl.O.P(MD) No.1631 of 2022 and the investigation is still pending on the file of the Inspector of Police, Sankarankovil Police Station, Tenkasi District.

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.

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 Inspector of Police, Sankarankovil Police Station, Tenkasi District 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. While conducting investigation the petitioners are at liberty to establish their involvement in



this crime before the investigating officer and the investigating officer is directed to consider the same and file the final report accordingly. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RECORDS)

WEB COPY

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Aav

To

1. The Inspector of Police,
Sendhmaram Police Station,
Tenkasi District.
2. The Inspector of Police,
Sankarankovil Police Station, Tenkasi District
3. The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S. NIRMAL ADITYA, Advocate (SR-18963[F] dated
18/04/2022)

Crl.O.P.(MD) No.6773 of 2022
and
Crl.M.P(MD) No.4677 of 2022
12.04.2022

RK(28.04.2022) 4P 5C