



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD) No.7173 of 2022

and

Crl.M.P(MD) No.4936 of 2022

P.Varghese

... Petitioner/Accused No.4

Vs.

1. The State through
The Inspector of Police,
District Crime Branch,
Theni District.

...Respondent/Dejure Complainant

2. A.Mokket

...Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the entire records connected with the case in Crime No.1 of 2020 pending on the file of the First respondent police and quash the same as illegal in so far as it relates to the petitioners are concerned.

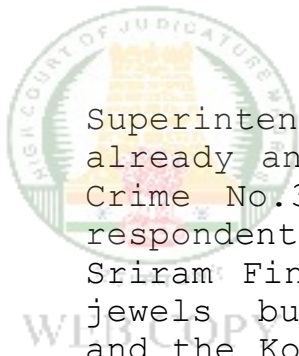
For Petitioner : Mr.S.Malaikani

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. 1 of 2020 on the file of the first respondent police.

2. The case of the prosecution is that the second respondent pledged his 68.5 grams gold chain with S.P. Net banking company owned by A1 in pledge No.402 on 14.11.2009 and obtained loan of Rs.60,000/- and in Pledge No.403 he pledged his chain on the same day and obtained a loan of Rs.25,000/- When he went to S.P. Net banking to redeem his jewels, he came to understand that the said S.P.Raja owner of S.P.Net Banking had re-pledged his jewels with Kosamattam Finance Company and the company refused to return the jewels. On 07.01.2011 he and some others went to the



Superintendent of Police Office, Theni to lodge complaint. But already an FIR was registered on the complaint of some others in Crime No.3 of 2011 against S.P.Raja on the file of the first respondent and thereafter from Muthoot Finance, Muthoot Fincorp, Sriram Finance where the said S.P.Raja repledged this customers' jewels but not with Kosamattam company in view of a criminal case, and the Kosamattam finance told the authorities and general public that only after the completion of said criminal case pending between the said S.P.Raja and the Kosamattam company the jewels will be returned. At this juncture, on 11.01.2013 when the defacto complainant and others went to the Kosamattam Regional office to seek return of jewels, they were chased out by the company staff there. They then lodged complaint with the first respondent but no action was taken. But on the basis of the complaint of S.P.Raja an FIR in Crime No. 18 of 2014 was registered against the Kosamattam finance on the file of the first respondent police.

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 Pokarnekar vs. the State of Maharashtra & ors.**, wherein it is held 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



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 (AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

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To

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

Crl.O.P. (MD) No.7173 of 2022

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USK/27.04.2022/4P/3C