



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P(MD)No.7436 of 2022

S.Ayyappan

... Petitioner/Sole Accused

Vs.

1.The Inspector of Police,
Cheranmahadevi Police Station,
Cheranmahadevi, Tirunelveli District.
(Crime No.50 of 2022)

... 1st Respondent/Complainant

2.Palavesam

... 2nd Respondent/
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to the impugned FIR in Crime No.50 of 2022 on the file of the first respondent dated 25.03.2022 and quash the same as illegal.

For Petitioner : Mr.R.Rajesh Kumar
For R1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl.side)
For R2 : Mr.S.Lenin Prabhu

ORDER

The Criminal Original Petition has been filed to quash the impugned FIR in Crime No.50 of 2022 on the file of the first respondent dated 25.03.2022.

2.The case of the prosecution is that on 24.03.2022 the defacto complainant after finishing his office work went to hotel, there, the petitioner confronted the defacto complainant and abused him with filthy language for the reason of his affiliation and canvassing in the election for the opposite party. The petitioners also attack the defacto complainant, thereby he caused simple injury. Hence, the defacto complainant lodged complaint before the respondent police and the same was registered in Crime No.50 of 2022 for the offence under Sections 341, 294(b), 324 and 506(ii) IPC.

3.Though the case was listed under the caption 'for compromise', the parties have not appeared before this Court. It shows that the parties are not interested to settle the issue.



4. 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



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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."

5.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 (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

rmk

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District Munsif Cum Judicial Magistrate,
Cheranmahadevi.
- 2.The Inspector of Police,
Cheranmahadevi Police Station,
Cheranmahadevi, Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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MGJ(03.06.2022) 3P 4C