



WEB COPY

CrI.O.P(MD)No.7404 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2022

CORAM:

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

CrI.O.P.(MD) No.7404 of 2022

and

CrI.M.P(MD) No.5048 of 2022

1.Indrani @ Indra

2.Rajendran

3.Rajalakshmi

...Petitioners/Accused Nos.1 to 3

Vs.

1. The State represented by
The Inspector of Police,
Thenkarai Police Station,
Theni District.
(Crime No.25 of 2022)

...Respondents/Complainant

2. Sarojini

...Respondents/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C.,
praying to call for the records of FIR in Crime No.25 of 2022 on
the file of the Respondent No.1 Police station and quash the same.

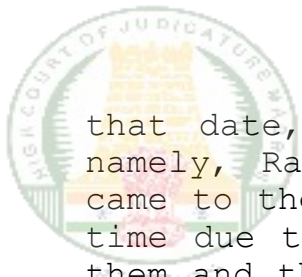
For Petitioners : Mr.M.Maharaja

For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor
for R.1

ORDER

This Criminal Original Petition has been filed to quash the
FIR in Crime No.25 of 2022, on the file of the Respondent No.1
Police station.

2. The case of the prosecution is that on 19.01.2022, the
defacto complainant had lodged a complaint before the first
respondent Police station wherein, she stated that she is residing
at the above said address. Further due to the defacto complainant's
husband job, the defacto complainant and her family members were
temporarily residing at K.K.Nagar, Madurai. Further the defacto
complainant is having one elder son, namely, Muthu Kannan, aged
about 10 years and one younger daughter, namely, Mahalakshmi, aged
about 8 years. While the matter is being so, on 15.01.2022, the
defacto complainant went to her father's house which is situated at
Kamatchiyamman Kovil Street, Thenkarai, Periyakulam, Theni. On



that date, at about 10.30 a.m., the defacto complainant's uncle, namely, Rasaiya's son Bala Murugan and daughter, Indrani @ Indra came to the defacto complainant's father Chellappa House and at the time due to civil dispute, there was a wordy quarrel arose between them and thereby, they were said to be abused with filthy language. Thereafter, while the defacto complainant questioned the same, at the time the petitioners were said to have abused the defacto complainant and lodged a complaint before the first respondent Police Station and a case has been registered in Crime No.25 of 2022 for the alleged offence under Sections 294(b) & 323 of IPC on 19.01.2022 against the petitioners.

3. The learned counsel for the petitioners would submit that for the very same occurrence there was a counter complaint given by the petitioner and the same was registered in Crime No.24 of 2022 for the offence under Sections 294(b) and 323 IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, as against the second respondent and others. Due to previous enmity, the complaint has been filed as against the petitioners. In fact, on the complaint lodged by the petitioners already there was an FIR pending against the second respondent and others.

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 allegations as against the petitioners, which has to be investigated. Further the FIR is not an encyclopedia and it need not contain all the facts. Further, it cannot be quashed at 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 investigation, 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.**, 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 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.

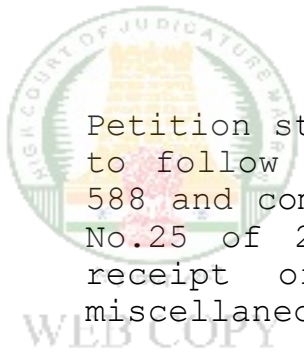
5. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to 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."



Petition stands dismissed. However, the first respondent is directed to follow the procedure laid down under the Police Standing Order 588 and complete the investigation and file a final report in Crime No.25 of 2022 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 I)

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/ /2022

Sub Assistant Registrar(CS)

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To

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

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and
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MGJ(23.05.2022) 4P 3C