



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.04.2022

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P(MD)No.11239 of 2020

Sankar @ Sankarandi

... Petitioner/Accused No.1

Vs.

1. State represented by
The Inspector of Police,
Srivaikundam Police Station,
Srivaikundam,
Tuticorin District.
(Crime No.433 of 2020)

... 1st Respondent/Complainant

2.Pathalam

... 2nd Respondent/
De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., praying to call for the records relating to Crime No.433 of 2020, dated 08.09.2020 on the file of the first respondent police and to quash the same in pursuant to joint compromise memo.

For Petitioner : Mr.M.Veilkani Raju

For R1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

For R2 : Mr.G.Vishnuram

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No.433 of 2020, dated 08.09.2020 on the file of the first respondent police.

2.The case of the prosecution is that there was a wordy quarrel between the parties regarding the non-payment of salary, for which, the petitioner and other accused entered into the Shanmugar garden and damaged the electric wire and motor, worth about Rs.4,000/-. Therefore, the present case came to be registered against the petitioners.



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. Without any base, the first respondent police registered a case in Crime No.433 of 2020 for the offences under Sections 448 and 294(b) of IPC and Section 3 of TNPPDL Act as against the petitioner.

4.Heard both sides and perused the materials available on record.

5.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.

6.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.**, 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



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To

1. The Inspector of Police,
Sri Vaikundam Police Station,
Sri Vaikundam, Tuticorin District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P (MD) No.11239 of 2020
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MGJ(24.05.2022) 4P 3C