



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)No.11833 of 2020

and

Crl.M.P(MD)No.5440 of 2020

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1.Sornam
2.Esak @ Esaakku
3.Manokar

... Petitioners/Accused Nos.1 to 3

Vs.

State represented by

1.The Inspector of Police,
Devarkulam Police Station,
Tirunelveli.

(In Crime No.283 of 2020). ... 1st Respondent/Complainant

2.Salamon ... 2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records of the impugned First Information Report in Crime No.283 of 2020 on the file of the first respondent police and quash the same as illegal.

For Petitioners : Mr.S.M.A.Jinnah

For R - 1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.283 of 2020 on the file of the first respondent.

2. The case of the prosecution is that on 25.08.2020 at about 14.00 hours one GRI-1627 Sandhanapandi has received an intimation from Sankaran Kovil Government Hospital, wherein the second respondent had been hospitalized as an inpatient and obtained a statement from him, wherein he stated that he is residing with his Soosaimaniammal and doing coolie work. He has constructed a house before seven years in his ancestral property measuring an extent of 4 cents. Three months back, the petitioner's paternal uncle, namely, John Muthaiah's legal heir, who are the petitioners herein disputed and demanded share in the said property, hence he filed a civil suit. In order to wreak vengeance, the petitioners came to the house of the defacto complainant and attacked him. Hence, the defacto complainant lodged a complaint and the same has been registered in



Crime No.283 of 2020 for the offences under Sections 294(b), 352, 323 and 506(i) of I.P.C.

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

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4. 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.

5. 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 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



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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."

6. 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 first respondent police is directed to complete the investigation and file a final report before the concerned Magistrate, within a period of eight weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-

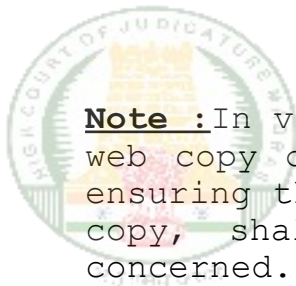
Assistant Registrar (AE)

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/ /2022

Sub Assistant Registrar(CS)

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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.

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To

- 1.The Inspector of Police,
Devarkulam Police Station,
Tirunelveli.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P (MD) No.11833 of 2020
08.03.2022

RD(24.03.2022) 4P 3C