



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2022

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P(MD)No.12668 of 2020

&

Crl.MP(MD)No.5761 of 2020

1. Muthumani
2. Selvakumar

... Petitioners/
Accused No.2 &3

Vs.

1. The Inspector of Police,
Pavoorchatram Police Station,
Tenkasi District.
(Crime No.426 of 2020)

... 1st Respondent/
Complainant

2. Ramesh

... 2nd Respondent/
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in Crime No. 426 of 2020 on the file of the respondent police and quash the same.

For Petitioners	:	Mr.S.Kumar
For Respondents	:	Mr.K.Sanjai Gandhi Government Advocate (Criminal Side)for R.1 Mr.G.Bhagavath Singh for R.2

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No. 426 of 2020 on the file of the respondent police.

2. The case of the prosecution is that the second respondent is hailing from Hosur, Krishnagiri District and he had intended to set up an Automobile Factory at Tirunelveli District and the accused were known to him through one, Periyasamy and he expressed his willingness to purchase the land in Plot No.25, T.S.No.59/79 Palayamkottai, Tirunelveli District to set up his business and the accused have agreed to make arrangement to buy the said land and they demanded Rs.40,00,000/- (Rupees Forty Lakhs only) for materialising the said sale. Out of Rs.40,00,000/- (Rupees Forty



Lakhs only) , Rs.10,00,000/- (Rupees Ten Lakhs only) was paid to the first accused on 27.06.2020 and the defacto complainant agreed to pay the balance amount after completion of registration of sale deed, dated 01.07.2020. But the accused have evaded from registration by making delay. While so, on 04.07.2020, the first accused called the defacto complainant and informed that document is ready for registration and asked him to come to Pavoorchatram. The defacto complainant went to the Pavoorchathram along with Periyasamy where the accused have demanded Rs.10,00,000/- (Rupees Ten Lakhs only) from him and in turn, the defacto complainant has paid Rs.10,00,000/- (Rupees Ten Lakhs only) to one, Mupili Kumar through online payment and cash mode. But, the accused did not take any steps to get the document registered as promised. On the other hand, they dragged on the matter by saying one or another reason. Disbelieving their statement, the defacto complainant got registration of sale deed in respect of Palayamkottai land along with land in S.No.51/2A, 51/2A1 Arimalai Village, Anaicut Taluk, Vellore District. On 12.08.2020, the defacto complainant demanded to return back the amount from the accused, they abused him in filthy language and intimidated him with dire consequences.

3. The learned Counsel appearing for the petitioners would submit that the petitioners were innocent and they have not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.426 of 2020 as against the petitioners.

4. The learned Government Advocate (Criminal Side) 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 allegations as against the petitioners, which have 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 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.

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."

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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 first 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 (AE)

// True Copy //

/ /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.

To

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

Crl.O.P (MD) No.12668 of 2020

&
Crl.MP (MD) No.5761 of 2020
08.04.2022

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