



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2022

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.15811 of 2020

and

Crl.M.P (MD)Nos.7740 of 2020 & 2127 of 2021

WEB COPY

- 1.D.Vethanayagam
- 2.Jeevakumar
- 3.Samson Paulraj
- 4.Enstin
- 5.R.Devadoss Gnanaraj
- 6.S.Ruban
- 7.J.S.Kirubahar
- 8.J.Goldwin
- 9.B.David Anbu Prabhakaran
- 10.Peter John Jeyfibal
- 11.C.Wilson
- 12.Andrews
- 13.S.Ponnu
- 14.S.P.D.Nelson

... Petitioners/Accused Nos.1 to 14
Vs.

- 1.The State represented by,
The Inspector of Police,
Perumalpuram Police Station,
Tirunelveli.
(Crime No.762 of 2020).

... 1st Respondent/Complainant

- 2.Karunakaran

... 2nd Respondent/Defacto Complainant

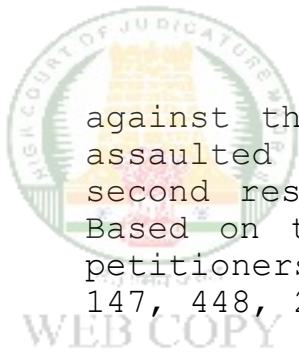
Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in pursuant to the First Information Report in Crime No.762 of 2020 pending on the file of the first respondent police and quash the same insofar as the petitioners are concerned.

For Petitioners	: Mr.N.Marappan
For R - 1	: Mr.B.Thanga Aravindh
	Government Advocate (Crl. Side)
For R - 2	: Mr.G.Prabhu Rajadurai

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.762 of 2020 on the file of the first respondent.

2. The case of the prosecution is that on 27.10.2020, a high level seminar held in the Sarah Tucker Womens College at Perumalpuram, Tirunelveli. While being so, at about 10.45 a.m., the first petitioner along with other accused persons entered into the College arena and abused the Moderators Commissary and other VIPs with filthy language and abused them by using un-parliamentary words



against them and tarnished their image among the guests and also assaulted and threatened them with dire consequences. Hence, the second respondent lodged a complaint before the first respondent. Based on the said complaint, FIR has been registered against the petitioners in Crime No.762 of 2020 for the offences under Sections 147, 448, 294(b), 427, 323, 324, 307 and 506(2) of I.P.C.

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

4. 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.

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.***, wherein the Hon'ble Supreme Court held 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."

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 respondent police is directed to complete the investigation and file a 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 Petitions are closed.

Sd/-

Assistant Registrar (T & P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



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,
Perumalpuram Police Station,
Tirunelveli.(Crime no.762/2020)
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-14966[F] dated 28/03/2022)

Order made in
Crl.O.P (MD) No.15811 of 2020
24.03.2022

SS/04.04.2022 : 4P/4C