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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)Nos.18183, 20165 & 20276 of 2021

and

Crl.M.P(MD)Nos.9974, 11389 & 11499 of 2021

1.Crl.O.P(MD)No.18183 of 2021:-

1.Dinakaran

2.Kaja Mayideen

... Petitioners/Accused Nos.1 & 2

Vs.

1.The State represented by,
The Inspector of Police,
Gudalur South Police Station,
Theni District.

(In Crime No.333 of 2021). ... 1st Respondent/Complainant

2.M.Pandiyan

... 2nd Respondent/
Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the case registered in First Information Report in Crime No.333 of 2021 on the file of the first respondent and quash the same in respect of the petitioners concerned.

For Petitioners : Mr.J.Lawrance

For R - 1 : Mr.B.Thanga Aravindh

Government Advocate (Crl. Side)

For R - 2 : No appearance

2.Crl.O.P(MD)No.20165 of 2021:-

Pandiyan

... Petitioner/Accused No.1

Vs.

1.The State represented by,
The Inspector of Police,
Gudalur South Police Station,
Theni District.

(In Crime No.334 of 2021). ... 1st Respondent/Complainant



2.Kajamaideen

... 2nd Respondent/
Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the FIR in Crime No.334 of 2021 pending on the file of the first respondent police and quash the same against the petitioner alone.

For Petitioner : Mr.AK.Azagarsami

For R - 1 : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)

3.Crl.O.P(MD)No.20276 of 2021:-

Pandiyan ... Petitioner/Accused No.1
Vs.

1.The State represented by,
The Inspector of Police,
Gudalur South Police Station,
Theni District.
(In Crime No.335 of 2021). ... 1st Respondent/Complainant

2.Mini ... 2nd Respondent/
Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the FIR in Crime No.335 of 2021 pending on the file of the first respondent police and quash the same against the petitioner alone.

For Petitioner : Mr.AK.Azagarsami

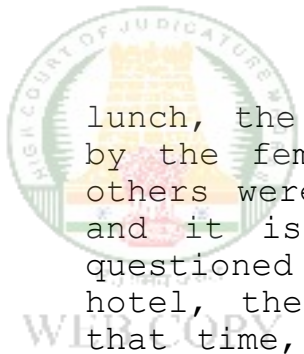
For R - 1 : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)

COMMON ORDER

These Criminal Original Petition have been filed to quash the FIR in Crime Nos.333, 334 and 335 of 2021 on the file of the first respondent.

2. The case of the prosecution in Crl.O.P(MD)No.18183 of 2021 is as follows:-

2.1.On 30.10.2021, at about 02.30 pm., when the defacto complainant, who is an Advocate practising at Uthamapalayam Court, and his friends went to a Hotel namely Kerala Hotel which is situated at Thammanampatti, Gudalur, Theni District for taking



lunch, the defacto complainant had questioned the services rendered by the female hotel staff and at that time, the petitioners and others were having their lunch in the adjacent table of the hotel and it is further alleged that when the second respondent has questioned the deficiency in services by the female staff of the hotel, the petitioners have slapped the second respondent and at that time, other accused have alleged to have threatened him with dire consequences. On the basis of the complaint lodged by the second respondent, F.I.R has been registered against the petitioners in Crime No.333 of 2021 for the offences under Sections 147, 294(b), 323 and 506(ii) of I.P.C.

3. The case of the prosecution in Crl.O.P(MD)No.20165 of 2021 is as follows:-

3.1. On 30.10.2021, at about 03.00 pm., the petitioner pushed down the hotel owner one Mini and used abusive language and the same was questioned by the defacto complainant and others, for which the petitioner along with other accused beaten the defacto complainant and criminally intimidated him. On the basis of the complaint lodged by the second respondent, F.I.R has been registered against the petitioner in Crime No.334 of 2021 for the offences under Sections 294(b), 323 and 506(i) of I.P.C.

4. The case of the prosecution in Crl.O.P(MD)No.20276 of 2021 is as follows:-

4.1. On 30.10.2021, at about 03.00 pm., the petitioner and other accused were having lunch at defacto complainant Mini's hotel, they used abusive language against the defacto complainant and others. On the basis of the complaint lodged by the second respondent, F.I.R has been registered against the petitioner in Crime No.335 of 2021 for the offences under Sections 294(b) and 506 (i) of I.P.C.

5. The learned Government Advocate (Criminal Side) appearing for the first respondent submitted that it is a case and case in counter and FIRs have been registered against the petitioners and the defacto complainant in Crime Nos.333, 334 and 335 of 2021 and it is pending on the file of the first respondent for investigation.

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

7. 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 services to be rendered by the investigating machinery has to step in to



investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

8. 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 Honourable Supreme Court of India 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



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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."

9. In view of the above, this Court is not inclined to quash the FIRs in Crime Nos.333, 334 and 335 of 2021. Accordingly, these Criminal Original Petitions are dismissed. However, the first respondent is directed to complete the investigation in Crime Nos.333, 334 and 335 of 2021, after following the Police Standing Orders for case and counter case and file final reports within a period of twelve weeks from the date of receipt of copy of this order, before the jurisdiction Magistrate. Consequently, connected Miscellaneous Petitions are dismissed.

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,
Gudalur South Police Station,
Theni District.



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

+1 CC to M/s.J. LAWRANCE, Advocate (SR-18070[F] dated 12/04/2022)

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11.04.2022

SRK(CO)
KB(28.04.2022) 6P 4C