



Crl.O.P.(MD)No.19040 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.12.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD)No.19040 of 2021
and Crl.M.P.(MD)No.10570 of 2021

1. A.Gurusamy @ Gurusami
2. Vignesh

...Petitioners

Vs.

1. The Deputy Superintendent of Police,
Periyakulam,
Theni, Theni District.
2. The Inspector of Police,
All Women Police Station,
Theni, Theni District.
(Crime No.47 of 2021)

3. J.Malarkkodi

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the First Information Report in Crime No.47 of 2021 on the file of the respondent police and quash the same.

For Petitioners : Mr.Ajal Khan, Senior Counsel
For Mr.A.Balaji

For Respondents
For R1 & R2 : Mr.A.Thiruvadi
Additional Public Prosecutor
For R3 : Mr.N.Ananthapadmanaban



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ORDER

This Criminal Original Petition has been filed to quash the F.I.R registered in Crime No.47 of 2021 on the file of the second respondent police, for the offences punishable under Sections 376, 417, 294(b), 506(i) of IPC r/w Section 3(1)(r), 3(1)(s), 3(2)(v) of the SC/ST (Prevention of Atrocities Act) 1989, as against the petitioners.

2. The case of the prosecution is that the second accused and the defacto complainant are relatives and they belonged to the same village. The first accused who is the resident of Coimbatore attended diploma in radiology class with the second accused and they had become close friends. Thereafter, the second accused brought the first accused to his village to attend Kalamman Kovil Festival, in the month of May, 2017. During the temple festival, the second accused introduced the defacto complainant to the first accused as a common friend. During the conclusion of the festival, the first accused informed the defacto complainant that he had fallen in love with her and forced her to accept the same. Further, the first accused threatened the defacto complainant that he will not hesitate to commit suicide by taking poison.

3. After that, the first accused left the village but he started to



visit the village very often under the guise of meeting the second accused and started to pester the defacto complainant by stating that he wants to marry her and he was very stubborn in his decision. Since the first accused continuously influenced the defacto complainant, she believed the first accused that he really loved her and gave her consent with a condition that he should approach her parents and seek for solemnization of marriage. The first accused had promised that he will bring his parents to seek for an alliance and increased the frequency of coming to the village. During such times, the first accused used to take the defacto complainant out and under the guise of marriage, he deceived the defacto complainant and obtained her consent for coitus.

4. During the month of September 2021, the defacto complainant's parents started to look for a bride groom and immediately, the defacto complainant informed the first accused to bring his parents to her house for meeting with her parents and to seek alliance. At that time, the first accused asked the defacto complainant to come alone to Coimbatore. When she went to Coimbatore, the first accused produced the photographs taken during the time when she was very close with him and threatened her that he will publish those photographs if she insists



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upon marriage. He also said that it is not possible for him to marry a person hailing from schedule caste community. At that time, the defacto complainant came to know the true colour and lusty intention of the first accused.

5. Due to fear of life, the defacto complainant informed to her bother over phone, who immediately alerted emergency police help number and informed they about the circumstances in which the defacto complainant was placed under restraint. Only on the intervention of Police, the first accused permitted the defacto complainant to return back to her village and thereafter she lodged complaint before the Inspector of Police, Tenkarai Police Station, Periyakulam. Since there was no action on her complaint, the defacto complainant approached the Superintendent of Police, Theni and her complaint was transmitted to the second respondent and thereafter registered the present FIR.

6. Heard Mr.Ajmal Khan, learned Senior Counsel appearing for the petitioners, Mr.A.Thiruvadi, learned Additional Public Prosecutor appearing for the respondents 1 & 2 and Mr.N.Ananthapadmanaban,



learned counsel appearing for the third respondent.

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7. On a perusal of records, after registration of FIR the first accused married the victim girl and thereafter he stopped providing anythings for her maintenance and he stopped picking up her phone calls and left her on starve for several days together. Therefore, both the accused persons have committed very serious and heinous offence against the victim girl. The first accused married the victim and thereafter left her in lurch. It shows that only to escape from the clutches of law, the first accused married the victim girl.

8. Further, it is seen from the First Information Report that there are specific allegations as against the petitioners to attract the offence, which has to be investigated in depth. Further the FIR is not an encyclopedia and it need not contain all facts and 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.



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9. In this regard, it is 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** in the case of **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 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.

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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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10. In view of the above discussion, this Court is not inclined to quash the First Information Report. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

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Internet : Yes
Index : Yes/No
Speaking/Non speaking order
rts/aav



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To

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1. The Deputy Superintendent of Police,
Periyakulam,
Theni, Theni District.
2. The Inspector of Police,
All Women Police Station,
Theni, Theni District.
3. The Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.K.ILANTHIRAIYAN. J.

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