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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2022

CORAM :

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

Crl.O.P.(MD)No.20255 of 2021
and
Crl.M.P.(MD)No.11488 of 2021

Kumar ... Petitioner/Accused No.2

Vs.

1.State represented by
The Inspector of Police,
Musiri Police Station,
Trichy District.
(Crime No.436 of 2021) ... Respondent/Complainant

2.Perumal ... Respondent./Defacto Complainant

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the First Information Report in Crime No.436 of 2021 for the offence under Section 294(b), 323, 324, 506(i) of IPC on the file of the Inspector of Police, Musiri Police Station, Trichy District, in so far as the petitioner / Accused No.2 is concerned.

For Petitioner : M/s.V.Kannan
For R1 : Mr.B.Thanga Aravindh
Government Advocate (Criminal side)

ORDER

This petition has been filed to call for the records in Cr.No.217 of 2021 on the file of the first respondent and quash the same.

2.The case of the prosecution is that the Sub Inspector of Police attached to the first respondent police station has received a complaint from the defacto complainant in the Government Hospital when the defacto complainant was admitted as inpatient. The case is that when the defacto complainant was at his field work, the petitioner along with other accused have trespassed into his land, attacked the defacto complainant with bricks and hands and criminally intimidated him. Hence the complaint.

3.The learned Counsel appearing for the petitioner would submit that the petitioner is innocent and he has not committed any offence

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as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No. 436 of 2021 for the offences under Sections 294(b), 323, 324 and 506(i) of IPC as against the petitioner.

4.The learned Government Advocate(Crl.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 allegation as against the petitioner, 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.

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 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*

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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."

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 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 (AD-II)

// 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,
   Musiri Police Station,
   Trichy District.

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

Crl.O.P.(MD)No.20255 of 2021
10.02.2022

SB(CO)
KB(04.03.2022) 4P 3C

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