



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.02.2022

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P(MD)No.20767 of 2021

and

Crl.M.P(MD)No.11840 of 2021

- 1.Saravanan
- 2.Veerasekar @ Veerasekaran
- 3.Latha

... Petitioners/
Accused Nos.1,2 & 4

Vs.

1. The Deputy Superintendent of Police,
Karaikudi Division,
Sivagangai District.

2. The Inspector of Police,
Pallathur Police Station,
Sivagangai District.
(Crime No.135 of 2021)

... Respondent Nos.1 & 2/
Complainant

- 3.Dhanalakshmi

... Respondent No.3/
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for records in respect of Crime No.135 of 2021 on the file of the second respondent and quash the same insofar as the petitioners are concerned.

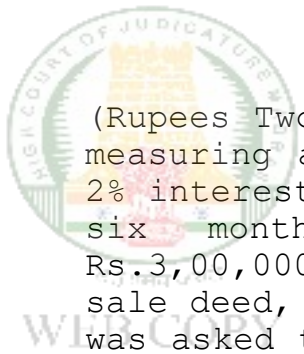
For Petitioners : Mr.D.Venkatesh
For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor (Crl.Side)
for R.1 & R.2

Mr.P.Banu Prasath for R.3

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.135 of 2021 on the file of the second respondent.

2. The learned counsel appearing for the petitioner submitted that, in the year 2017, the third respondent borrowed Rs.2,00,000/-



(Rupees Two Lakhs only) from the third accused by pledging her land measuring an extent of 13.75 cents in S.No.680/18. She was paying 2% interest and was paying Rs.4,000/- (Rupees Four Thousand only) for six months. During September 2018, she further borrowed Rs.3,00,000/- (Rupees Three Lakhs only) by executing a registered sale deed, but the third accused demanded 6% interest and hence, she was asked to pay a sum of Rs.30,000/- (Rupees Thirty Thousand only) per month. She refused to pay the said interest and was facing frequent threat from the third accused. When she disclosed the same with the third petitioner, the third petitioner introduced the first petitioner / a financier to the third respondent introducing him as her relative.

3. He would also submit that it is further averred that the first petitioner agreed to solve her problem and got a registered sale deed, dated 07.03.2019 executed by the third accused in his favour. But, the said sale took place without her knowledge. Ten days after sale, all the accused called upon her and insisted her to pay Rs.15,000/- (Rupees Fifteen Thousand only) for re-conveyance of her land. Thereafter, with the permission of her husband, she pledged her gold jewels for raising fund. Thereby, she raised fund and paid Rs.13,41,500/- (Rupees Thirteen Lakhs Fourty One Thousand and Five Hundred only) in total. Even then, the petitioners frequently insisted her to repay the remaining amount. After some time, they demanded her to again pay Rs.15,00,000/- (Rupees Fifteen Lakhs only). On 15.09.2021, all the accused came to her house and insisted her to vacate the land and threatened her with dire consequences.

4. He would also submit that since the accused demanded further sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) for the principal sum of Rs.5,00,000/- (Rupees Five Lakhs only), the third respondent made a complaint and the second respondent on 25.11.2021 registered the above case. Initially, the FIR was registered for the offences punishable under Sections 420 and 506(i) IPC and under Sections 3 and 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act. In fact, the present complaint itself is a motivated one and the third respondent lodged it only to extract more amount from the first petitioner with the help of the first respondent between the first petitioner and the third respondent. Earlier, on 25.01.2021, based on the complaint of the third respondent, the second respondent registered a case against the first petitioner and 15 others in Crime No.4 of 2021 initially for the offences punishable under Sections 147, 148, 427 and 379 IPC and Section 3(1)(r) of the Scheduled Castes / Scheduled Tribes (Prevention of Atrocities) Act, 2015.

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 petitioners, 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 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."

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 second respondent is directed to complete the investigation and file final report 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-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mga

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 Deputy Superintendent of Police,
Karaikudi Division,
Sivagangai District.
2. The Inspector of Police,
Pallathur Police Station,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P(MD)No.20767 of 2021
25.02.2022

nsn(CO)
TR(05.04.2022) 5P 4C