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CrI.O.P.No.6921 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2023

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.6921 of 2022

and

CRL.M.P.No.4009 of 2022

1.Selvam

2.Manvizhi

3.Kanimozhi

4.Gayathri

5.Karthika

6.Sabari

... Petitioners

Vs

1.The State represented by
the Inspector of Police,
Vaazhapadi Police Station,
Salem District.
(Crime No.90 of 2021)

2.Saroja

... Respondents

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to the FIR in Crime No.90 of 2021 on the file of the Inspector of Police, Vaazhapadi Police Station, Salem District and to quash the same.

For Petitioners : Mr.C.Prabakaran

For R1 : Mr.A.Gopinath
Government Advocate (Crl Side)

For R2 : Mr.F.Wellington



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ORDER

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This Criminal Original Petition has been filed to quash the FIR in Crime No. 90 of 2021 on the file of the first respondent Police.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The case of the prosecution is that the petitioners trespassed into the land of the second respondent and damaged the PVC water pipeline. When it was questioned by the second respondent, the petitioners abused and assaulted the second respondent's husband with hands and threatened them with dire consequences. Hence, the complaint.

4. On receipt of the complaint, the first respondent registered FIR in Crime No.90 of 2021 for the offence under Sections 294(b), 447, 427, 323 and 506(i) of IPC.

5. It is seen that a counter case was also registered in Crime No.91 of 2021 on the file of the first respondent herein. Further, there



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are specific allegations as against the petitioner in order to attract the offences under Sections 294(b), 447, 427, 323 and 506(i) of IPC.

6. 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 Pokarnekhar 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.

.....

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."

7. In view of the above discussion, this Court is not inclined to quash the FIR in Crime No.427 of 2020 on the file of the first respondent. Accordingly, this Criminal Original Petition stands dismissed. The first respondent is directed to conduct investigation by following the Police Standing Order 588A 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.

01.12.2023

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Index:Yes/No
Internet:Yes/No

To

1.The Inspector of Police,
Vaazhapadi Police Station,
Salem District.

2.The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN,J.

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