



WEB COPY



CRL.O.P.No.9820 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.05.2023

CORAM:

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

CRL.O.P.No.9820 of 2023 &
CrI.M.P.No.6448 of 2023

M.Kumarasamy

... Petitioner/Accused
Vs.

1.The State rep by
The Inspector of Police,
F-2, Egmore Police Station,
Chennai - 600 008.
(Cr.No.109/2023)

... 1st Respondent / Complainant

2.J.Jeyavani

... 2nd Respondent / Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records and quash the First Information Report in Crime No.109 of 2023 on the file of the first respondent/complainant against the petitioner.

For Petitioner : Mr.R.Suresh

For Respondent 1 : Mr.N.S.Suganthan,
Government Advocate (CrI. Side)

ORDER

This petition has been filed to quash the F.I.R. in Crime No.109 of 2023 registered by the first respondent police for offences under Sections 341, 324 & 506(2) of I.P.C read with section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, as against the petitioner.



CRL.O.P.No.9820 of 2023

2. The case of the prosecution is that on 13.02.2023 at about 4.10 pm, it is alleged that there is a constant friction between the petitioner and the defacto complainant. The petitioner had disguised himself and hidden and suddenly attacked the defacto complainant with a blade in her face, due to which she suffered an injury in her face. She was taken to the Rajiv Gandhi Government Hospital for treatment and stitches was done to her injury. Hence, the Defacto Complainant preferred the above Complaint against the petitioner.

3. The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.109 of 2023 for the offences under Sections 341, 324 & 506(2) of I.P.C read with section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, as against the petitioner. Hence he prayed to quash the same.

4. The learned Government Advocate (Crl. side) would submit that the investigation is almost completed and the final report is yet to be filed.

5. Heard Mr.R.Suresh, learned counsel appearing for the petitioner and



CRL.O.P.No.9820 of 2023

Mr.N.S.Suganthan, learned Government Advocate (Crl. side) appearing for the first respondent.

6. The petitioner is the husband and the defacto complainant is the wife.

It is seen from the First Information Report that there are specific allegations as against the petitioner 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.

7. 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.

.....

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



WEB COPY



CRL.O.P.No.9820 of 2023

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. Accordingly, this Criminal Original Petition stands **dismissed**. Consequently, connected miscellaneous petition is closed.

04.05.2023

nl

Index : Yes / No
Speaking / Non Speaking order
To



CRL.O.P.No.9820 of 2023

1. The Inspector of Police,
F-2, Egmore Police Station,
Chennai - 600 008.

2. The Public Prosecutor,
High Court, Madras.



WEB COPY



CRL.O.P.No.9820 of 2023

G.K.ILANTHIRAIYAN, J.
nl

Crl.O.P.No.9820 of 2023

04.05.2023