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CRL.O.P.No.9929 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.9929 of 2023

1.Kanniappan

2.Dinesh

... Petitioners/Accused (A1 & A2)

Vs.

1. The Inspector of Police,
Arani Taluk Police Station,
Thiruvannamalai District.

... 1st Respondent / Complainant

2. Renu

... 2nd Respondent/ Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records relating to the proceedings in Crime No.333 of 2018 on the file of the first respondent and quash the same.

For Petitioner : Mr.V.Bhagiradhan

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

ORDER

This petition has been filed to quash the F.I.R. in Crime No.333 of 2018 registered by the first respondent police for offences under Sections 420 & 506 (1) of I.P.C as against the petitioners.



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2. The case of the prosecution is that the defacto complainant is involved in the business of having been purchasing the paddy from the farmers as a bulk sum and converting it into rice through the rice mills. At this stage, in the year 2017 November, the defacto complainant had bought about 310 baggages of Paddy from 15 farmers and the same was conveyed as rice through K.R.Rice mills, as well as about 130 baggages of paddy from J.J.Rice mills had been given to the said K.R.Rice Mills at Sevrur Village and for the same, a sum of Rs.7,39,450/- to be given to the defacto complainant. The petitioner K.R.Kanniappan, owner of K.R.Rice Mills had not given the said amount to the defactor complainant, when asked through mobile phone. At this juncture, on 03.04.2018 at about 5.00 pm, when the defacto complainant went to the K.R.Rice mills to ask about the payment, the second petitioner who is the son of the first petitioner had threatened the defacto complainant with dire consequences. Hence the defacto complainant launched the complaint.

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

4. Heard Mr.V.Bhagiradhan, learned counsel for the petitioner and Mr.N.S.Suganthan, learned Government Advocate (Crl. side) appearing for the first respondent.



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5. 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.

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



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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**.

04.05.2023

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Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

To



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1. The Inspector of Police,
Arani Taluk Police Station,
Thiruvannamalai District.
2. The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN, J.



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