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Crl.O.P.No.2341 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2023

CORAM:

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

Crl.O.P.No.2341 of 2022

and

Crl.M.P.No.1029 of 2022

1.K.Aabitha Khaleelul

2.M.H.Khaleelullah

3.A.Siraj

4.K.Zainul Aafreen Fathima

... Petitioners

Vs.

1. State through

The Inspector of Police,
All Women Police Station,
Tambaram.

(R1 amended as per order
dated 18.07.2023 in
Crl.M.P.No.10499 of 2023
in Crl.O.P.No.2341 of 2022)

2.A.Benazir

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for records pertaining to FIR in Crime No.48 of 2022 dated 09.08.2021 on the file of the 1st Respondent and quash the same as illegal.



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For Petitioners : Mr.Syed Abdul Mashood
For R1 : Mr.A.Gopinath
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.48 of 2022, on the file of the first respondent.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.Side) for the first respondent and perused the materials available on record.

3. The case of the prosecution is that A1 and defacto complainant are husband and wife. It is alleged that A1 along with the petitioners herein demanded huge dowry and tortured the defacto complainant. Hence, the complaint.

4. The learned counsel for the petitioners would submit that the petitioners are arrayed as A2 to A5. They are in-laws and they have nothing to do with the alleged occurrence as alleged by the prosecution.

5. A perusal of the FIR reveals that there are specific allegations to



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constitute the offences under Sections 498(A) and 406 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002.

6. Therefore, the FIR is not an encyclopedia and it need not contain all facts and it cannot be quashed in its 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 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



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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



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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. Therefore, this Court is not inclined to quash the FIR in Crime No.48 of 2022, on the file of the first respondent. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous petition is closed. The first respondent is directed to complete the investigation in Crime No.48 of 2022 and file a final report, within a period of twelve weeks from the date of receipt of a copy of this order.

01.12.2023

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
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G.K.ILANTHIRAIYAN, J.
mn

To

1.The Inspector of Police,
All Women Police Station,
Tambaram.

2.The Public Prosecutor
Madras High Court.

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and
Crl.M.P.No.1029 of 2022

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