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Crl.O.P.No.23371 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2023

CORAM:

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

Crl.O.P.No.23371 of 2023

R.Rajendran

...Petitioner

-Vs-

State represented by its
Deputy Superintendent of Police,
Vigilance and Anti Corruption Unit,
Tiruvarur.

... Respondent

Prayer : Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for records in Crime/FIR No.5/2021 on the file of Deputy Superintendent of Police, Vigilance and Anti corruption Unit, Tiruvarur and quash the same.

For Petitioner : Mr.P.Thiagarajan

For Respondent : Mr.C.E.Pratap
Government Advocate (Criminal Side)

ORDER

This Criminal Original Petition has been filed to quash the proceeding in Crime/FIR No.5 of 2021 on the file of Deputy



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Superintendent of Police, Vigilance and Anti corruption Unit, Tiruvarur.

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2. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) for the respondent and perused the materials available on record.

3. The case of the prosecution is that there are totally four accused, in which the petitioner is arrayed as A4. The petitioner along with other accused had forged documents and used the forged documents as genuine, dishonest misappropriation, criminal breach of trust and caused wrongful loss to the Town Panchayat. Hence, the complaint.

4. The learned counsel for the petitioner would submit that the entire allegations are against A1 to A3 and the petitioner has nothing to do with the allegations as alleged by the respondent herein. Now, the departmental proceeding was also initiated as against the petitioner and the petitioner was served with a charge memo. On receipt of the same, the petitioner submitted an explanation and it is pending. Therefore, the for the very same set of charges, now the respondent had registered the



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FIR. The entire allegations were alleged to have been committed in the month of December, 2019. Whereas, the petitioner had taken charge of preparing bill from 16.12.2019. Therefore, the petitioner had no personal knowledge about the number of sanitary workers actually working and the number of days actually worked by the sanitary workers in the month of December 2019. He further submitted that the creation of attendance register and hiding the original attendance register pertaining to other accused and there is no allegation as against the petitioner.

5. A perusal of FIR revealed that there are specific allegations as against the petitioner to constitute the offences under Sections 120B, 420, 409, 468, 471 IPC, Sections 13(2) r/w 13(1)(a) of Prevention of Corruption Act, 1988 as amended 2018. The petitioner had verified the bill claiming that the attendance register of December, 2019 and then prepared the bill and expenses journal voucher. Further, the petitioner along with other accused colluded with each other and prepared forgery bill as all 20 workers in Kurinchimalar Self Help group had worked all 27 days in the month of December, 2019 and claimed the bill amount. They also claimed the bill amount for the excess 43 days in the names of



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17 persons and claimed an amount of Rs.13,975/-. The excess amount was swindled by all the accused persons. They had also prepared the forged documents of one A.Vetrivel, who had prepared PVC pipes work at Kosakula Street, Muthupettai. They used to prepare forged documents, use the forged document as genuine, dishonest misappropriation, criminal breach of trust and caused wrongful loss to the Muthupettai Town Panchayat fund and swindled a sum of Rs.9700/- during the period of December, 2019. They had also received a sum of Rs.47,800/- from one P.Sivakumar after he had encashed the amount from the bank. Therefore, all the accused colluded with each other and committed offences of forgery and used the forged document as genuine, dishonest misappropriation, criminal breach of trust and caused wrongful loss to the Muthupettai Town Panchayat. Therefore, there are specific averments as against the petitioner to proceed further with the investigation.

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.



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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 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



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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



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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 in Crime No.5 of 2021 on the file of Deputy Superintendent of Police, Vigilance and Anti corruption Unit, Tiruvarur. However, the respondent is directed to complete the investigation and file a final report, within a period of twelve weeks from the date of receipt of a copy of this order.

9. Accordingly, this Criminal Original Petition is dismissed.

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

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To

The Deputy Superintendent of Police,
Vigilance and Anti Corruption Unit,
Tiruvarur.

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12.10.2023