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CrI.O.P.No.23811 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2023

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

CrI.O.P.No.23811 of 2019

and

CrI.M.P.No.12548 of 2019

1.N.Prakash
2.M.N.Sundar
3.V.Naresh Narayanan
4.Raj Sundar

... Petitioners

Vs

1.The State,
Represented by its Inspector of Police,
Central Crime Branch – I,
Office of the Commissioner of Police,
Vepery, Chennai.

2.KarthikSethupathy

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records of the proceedings in Crime No.150 of 2018 on the file of the first respondent police and to quash the same.

For Petitioners	: Mr.R.Hari Krishnan for Govind Chandrasekhar
For R1	: Mr.L.Baskaran Government Advocate (CrI. Side)
For R2	: Mr.D.Venkatesh



CrI.O.P.No.23811 of 2019

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ORDER

This Criminal Original Petition has been filed to quash the FIR registered in Crime No.150 of 2018 on the file of the first respondent herein.

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

3. The case of the prosecution is that on 19.12.2017, on information from the Government Hospital, Royapettai, Chennai, the Special Sub Inspector of Police went to the Hospital and recorded the statement of the defacto complainant. In the statement, he stated that he had owned house situated at No.22/23, Alsa Maipar, Ganapathy Colony, Teynampet, Chennai. He is residing there along with his family members for the past 20 years. During the year 2012, he got married with one Kanagamathi and they gave birth to two children. In the year 2016, his foster mother died and he had visited his foster mother's property at Rameshwaram, Ramanathapuram and Madurai. His foster mother had two sisters, viz., R.S.Padma & Sethuparvatha Varthini. There is a



CrI.O.P.No.23811 of 2019

property dispute between the defacto complainant and his foster mother's sisters. On 09.12.2017, the accused persons conducted a meeting with the defacto complainant and obtained signature in empty paper and also instructed his wife to hand over the gold jewels to A4. On that pretext, the wife of the defacto complainant handed over the jewels to A4 and thereby cheated the defacto complainant. Hence, the complaint.

4. On receipt of the complaint, the first respondent registered a FIR in Crime No.2007 of 2017 for the offence under Sections 406, 365, 342, 324, 384 & 506(ii) of IPC as against the accused persons.

5. The learned counsel appearing for the petitioners would submit that no offence has been made out as against the petitioners herein. The offences as alleged by the first respondent are not at all attracted, since no specific averment is made in order to attract those offences as against the petitioners.

6. A perusal of the status report submitted by the first respondent reveals that on secret information, on 07.01.2018, the Investigating Officer enquired the petitioners and arrested them, after



CrI.O.P.No.23811 of 2019

recording their confession statement. In their confession statement, they categorically admitted the allegations levelled as against them. That apart, now the investigation has been transferred to the file of the Central Crime Branch, Vepery, Chennai. The accused persons were found in possession of (i) Indian Rifle 30.06 Bore rounds - 18 numbers (ii) 30.06 Bore MT rounds – 30 numbers (iii) 12 Bore rounds – 10 numbers (iv) 12 Bore MT rounds – 15 numbers (v) 32 piston MT rounds – 27 numbers (vi) TN 72 AR 4567 Volkswagon White Colour Car – 1. Therefore, it came to the light that the accused persons conspired to grab the defacto complainant's property . On 14.12.2017, the accused persons abducted the defacto complainant and committed attempt to murder and assaulted him with knife, iron rod and wooden log and also threatened him with dire consequences. They also indulged in extraction of the property belonging to the defacto complainant to the worth about Rs.33 crores. The Investigating Officer sought for sanction to prosecute the accused under the Indian Arms Act and it is pending. That apart, almost the entire investigation is completed and the first respondent is about to file a final report. Under these circumstances, the FIR cannot be quashed on the grounds raised by the petitioners.



Crl.O.P.No.23811 of 2019

7. In this regard, it is relevant to rely upon the judgment of the

WEB CO 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 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."



CrI.O.P.No.23811 of 2019

8. In view of the above discussions, this Court is not inclined to quash the FIR in Crime No.150 of 2018 on the file of the first respondent. Accordingly, this Criminal Original Petition stands dismissed. The first respondent is directed to 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.

30.10.2023

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Index:Yes/No
Internet:Yes/No

To

1. The Inspector of Police,
Central Crime Branch – I,
Office of the Commissioner of Police,
Vepery, Chennai.

2. The Public Prosecutor,
High Court, Madras.



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CrI.O.P.No.23811 of 2019

G.K.ILANTHIRAIYAN,J.

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CRL.O.P.No.23811 of 2019
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30.10.2023