



Crl.O.P.No.30579 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023

CORAM:

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

Crl.O.P.No.30579 of 2019 and
Crl.M.P.No.16567 of 2019

R.Govindarajan

... Petitioner

-Vs-

1) The state of TamilNadu,
Represented by the Inspector of Police,
Deevattipatti Police Station,
Salem District.
(Crime no.484 of 2019)

2) The Sub-Inspector of Police,
Deevattipatti Police Station,
Salem District.

3) R.Gopalakrishnan

... Respondents

PRAYER: Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the entire records pertaining to First Information Report in FIR No.484 of 2019 dated 14.09.2019 registered under sections 294(b), 323, 506(ii) and 420 of IPC on the file of the 1st respondent and quash the same.



Crl.O.P.No.30579 of 2019

For Petitioner : Mr.R.Selvakumar
For Respondent 1 & 2 : Mr.A.Gopinath,
Government Advocate (Crl.Side)

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ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No.484 of 2019 dated 14.09.2019 on the file of the 1st respondent registered for the offences under Sections 294(b), 323, 506(ii) and 420 of IPC.

2. The case of the prosecution is that this petitioner promised the defacto-complainant of procuring the Office Assistant job and demanded to deposit of Rs.13,00,000/-. Accordingly, the defacto-complainant had paid the petitioner Rs.7,00,000/- on 24.06.2017 and Rs.6,00,000/- on 01.07.2017 in the petitioner's office at Kadayampatti. However, the petitioner failed to do so and also failed to return back the money, Hence, on 14.09.2019 at about 01.30p.m., the defacto-complainant along with his friend went to the office of the petitioner and demanded the money, for which the petitioner abused with unparliamentary words and assaulted in the left cheek and chest of the defacto-complainant. Further, this petitioner tried to assault him with a wooden log. The defacto-complainant suffered with several injuries and admitted in hospital. Hence, the complaint.



Crl.O.P.No.30579 of 2019

3. The learned counsel for the petitioner submitted that the said occurrence not at all taken place and only in order to extract money from the petitioner, the false complaint has been foisted up against this petitioner.

4. On perusal of the entire records and also the alteration report filed by the 1st respondent revealed that the petitioner had committed very serious offence as against the general public. The 1st respondent rightly altered the offence into Sections 294(b), 323, 506(ii) and 420 of IPC. Therefore, the respondent police investigated the case of job racketing and found out in a manner known to law.

5. 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



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CrI.O.P.No.30579 of 2019

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.

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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



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CrI.O.P.No.30579 of 2019

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."

6. In view of the above discussion, this Court is not inclined to quash the First Information Report. Accordingly, this Criminal Original Petition stands dismissed. However, the 1st and 2nd respondents are directed to complete the investigation in Crime No.484 of 2019 and file a final report within a period of eight weeks from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed. Consequently, connected miscellaneous petition is closed.

30.11.2023

(1/2)

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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Crl.O.P.No.30579 of 2019

G.K.ILANTHIRAIYAN, J.

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To

- 1) The Inspector of Police,
Deevattipatti Police Station,
Salem District.
(Crime no.484 of 2019)
- 2) The Sub-Inspector of Police,
Deevattipatti Police Station,
Salem District.
- 3) The Public Prosecutor,
High Court, Madras.

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