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CRL.O.P.No.30727 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023

CORAM:

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

CRL.O.P.No.30727 of 2022
and CrI.MP.No.18820 of 2022

1.B.Bharathi Reddy
2.G.Chandrasekar
3.Arulsamy
4.N.N.Vigneshwar.N.N

... Petitioners

Vs.

1. The State rep by
The Inspector of Police,
R-7, K.K.Nagar Police Station,
Vadapalani,
Chennai
2.M/s.Paterson Cancer Center Private Limted,
Rep. By its Authorized Signatory V.Joseph Aloysius
Registered office at
No.175, NSK Salai,
Vadapalani, Chennai 600 026

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C.
praying to quash the FIR in Crime No.511 of 2022 dated 24.11.2022 on the file
of the first respondent.

For Petitioners : Mr.T.K.S.Gandhi

For Respondents

For R1 : Mr.A.Gopinath,
Government Advocate(crl.side)



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For R2 : Mr.B.Natarajan

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ORDER

This criminal original petition has been filed to quash the F.I.R. in Crime No.511 of 2022 registered by the first respondent police for offences under Sections 448 & 380 of IPC, as against the petitioners.

2. The case of the complainant is that on 16-01-2021 at about 9.00 p.m., the first accused with the help of the second to fourth accused and her men, agents and rowdies illegally and forcibly trespassed into the Hospital premises of the Complainant and threatened the Complainant's Doctors, nurses, staff and patients that they would suffer grave injuries and death if they do not exit immediately and then violently pushed out and forced out the Complainant's Doctors, nurses, staff and patients who were present in the Hospital. The Complainant's Doctors immediately locked the Hospital to secure the premises, but the men, agents and rowdies of the first to fourth Accused put a counter lock with a heavy chain to prevent the entry of the Complainant with preplanned intention to commit theft and robbery of the articles and goods of the Complainant which were kept inside the Complainant's Hospital.

3. The learned Counsel appearing for the petitioners would submit



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that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered the case in Crime No.511 of 2022 for offences under Sections 448 & 380 of IPC as against the petitioners. Hence he prayed to quash the same.

4. The learned Government Advocate(crl.side) appearing for the first respondent would submit that the investigation is almost completed and the respondent police have only to file final report.

5. Heard Mr.T.K.S.Gandhi, the learned counsel appearing for the petitioners, Mr.A.Gopinath, the learned Government Advocate(crl.side) appearing for the first respondent and Mr.B.Natarajan, the learned counsel appearing for the second respondent.

6. It is seen from the First Information Report that there are specific allegations as against the petitioners to attract the offences. Though civil proceedings are pending between the petitioners and the second respondent, it has nothing to do with the present FIR since it is alleged that the accused persons have forcibly trespassed into the premises of the second respondent



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which was leased out in favour of the second respondent and locked the premises. Therefore, the allegations have to be investigated in depth to unearth the truth. 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.

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.,*** wherein it is held 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. However, considering the crime is of the year 2022, the first respondent is directed to complete the investigation in Crime No.511 of 2022 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

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order
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To

- 1.The Inspector of Police,
R-7, K.K.Nagar Police Station,
Vadapalani,
Chennai
2. The Government Advocate,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.
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