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CRL.O.P.No.25304 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2023

CORAM:

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

Crl.O.P.No. 25304 of 2019

and

Crl.M.P.No.14378 of 2018

Kevin

... Petitioner

Vs.

1. State Rep.by its
The Inspector of Police,
E-3, Teynampet Police Station.
Chennai.

2. Jagadheesh

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C.
praying to call for the entire records on the file of the first respondent in FIR
No.598 of 2018 dated 12.07.2018 and quash the same.

For Petitioner : Mr.P.Saranath

For Respondents

For R1 : Mr.L.Baskaran
Government Advocate (Crl.Side)

For R2 : Mr.Vijay Kumar



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ORDER

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2. The case of the prosecution is that the second respondent lodged a complaint before the first respondent alleging that the petitioner has received a sum of Rs.3,00,000/- in order to get college admission for the defacto complainant's son. Thereby, petitioner cheated the defacto complainant. Though, the complaint was received by the first respondent, no action was taken and as such the second respondent was constrained to file direction petition before this Court in Crl.O.P.No. 19507 of 2017 and as directed by this Court, the first respondent registered FIR in Crime No.598 of 2018 under sections 419, 420, 284(b), 506(2) of IPC.

3. The learned counsel for the petitioner would submit that, the entire complaint is false one and in order to wreck vengeance against the petitioner, false complaint has been foisted against him. In fact, petitioner does not know about one Suresh, who is mentioned in the complaint. Only on instigation of the defacto complainant, allegations have been made against the petitioner.



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Even according to the defacto complainant, petitioner received money from one Suresh, whereas the complaint was lodged by the second respondent.

Therefore, there was no *locus standi* on the side of the second respondent to lodge the complaint, since he is not an aggrieved person.

4. On perusal of records it revealed that, petitioner received money from one Suresh, in order to get college admission. Thereafter, he cheated the said person and thereafter, second respondent lodged a complaint. That apart, petitioner has so many previous cases for the allegations of similar in nature.

5. It is seen from the First Information Report that there are specific allegations as against the petitioner to attract the offence, which has to be investigated in depth. 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.



6. 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 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



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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."

7. 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 2018, the first respondent is directed to complete the investigation in Crime No.598 of 2018



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and file a final report within a period of twelve weeks from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed.

Consequently, connected miscellaneous petitions are closed.

12.10.2023

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

dpa/sma

To

1. The Inspector of Police,
E-3, Teynampet Police Station.
Chennai.

2. The Public Prosecutor
Madras High Court.



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G.K.ILANTHIRAIYAN, J.

sma

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