

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.2010 of 2019

1.R.Pannerselvam
2.P.Rani
3.P.Kesavan
4.Seenivasan

...Petitioners

-Vs-

1.State rep.by
Inspector of Police,
CCB-I (Forgery Team),
Veppery, Chennai-7.

2.Mrs.J.Manimegalai

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records and quash the F.I.R.No.448/2017 dated 11.12.2017 on the file of the respondent police (CCB-I) Forgery Team, Veppery, Chennai.

For Petitioners : Mr.Mohammed Rafi

For R1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

For R2 : Mr.R.Sethuvarayar

ORDER

This Criminal Original Petition has been filed quash the F.I.R.No.448 of 2017 dated 11.12.2017 on the file of the respondent police (CCB-I) Forgery Team, Veppery, Chennai.

submitted that the petitioners joined together created a forged Will and thereby cheated the defacto complainant and her sister. Hence, she lodged a complaint before the 1st respondent police and a case in Crime No.448 of 2017 has been registered against the petitioners.

3.The learned counsel for the petitioners submitted that the petitioners are innocent persons and they did not commit any offence as alleged by the prosecution.

4.Heard both sides.

5.It is seen that the 2nd respondent/defacto complainant raised the ground of alibi and it can be considered only during the trial and the documents have to be tested by the trial Court. It is relevant to extract the following observations made by the Hon'ble Supreme Court in the case of **Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors.**, in Crl.A.No.255 of 2019 dated 12.02.2019, with regard to quashing of the criminal proceedings.

"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."

6. In view of the above discussion, this Court is not inclined to quash the FIR. However, considering the crime is of the year 2017, the first respondent is directed to complete the investigation in Crime No.448 of 2017 and file a final report within a period of three months from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed.

G.K.ILANTHIRAIYAN. J.,

rm

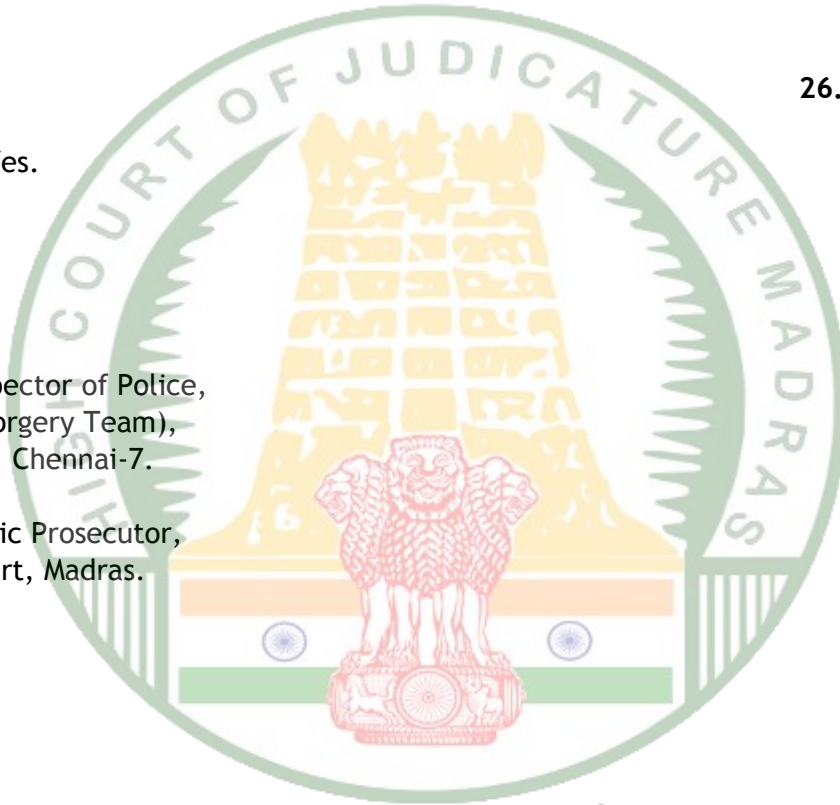
7.With the above directions, this Criminal Original Petition stands disposed of.

26.03.2019

Internet: Yes.
rm

To

- 1.The Inspector of Police,
CCB-I (Forgery Team),
Veppery, Chennai-7.
- 2.The Public Prosecutor,
High Court, Madras.



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