

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.7994 of 2019  
and Crl.M.P.No.4339 of 2019

Babu

...Petitioner

Vs.

1.State by Inspector of Police,  
District Crime Branch  
Villupuram.  
Crime No.1 of 2017

2.G.P.Uthami

...Respondents

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records relating to the first information report in Crime No.1 of 2017 on the file of the Inspector of Police, District Crime Branch, Villupuram/first respondent herein and quash the same.

For Petitioner : Mr.R.Arundattan

For Respondents : Mr.C.Raghavan  
Government Advocate (Crl.side)

O R D E R

This petition has been filed to quash the first information report in Crime No.1 of 2017 on the file of the first respondent.

2. The petitioner was arrayed as A2 in Crime No.1 of 2017 for the offences punishable under Sections 420, 467, 468, 471 r/w Section 82(d) of Registration Act, 1908 based on the complaint given by the second respondent herein.

3.The case of the prosecution is that the defacto complainant's father-in-law viz., Saurimuthu had executed a gift deed of 0.62 cents of land in favour of his son viz, Vijayakumar, who is the husband of the 2<sup>nd</sup> respondent/defacto complainant on 19.09.1978 vide document No.1241 of 1978. Subsequently, the defacto complainant's husband died. Thereafter, the defacto complainant's father-in-law executed

another sale deed to an extent of 1.24 cents, which includes the 0.62 cents already gifted to the defacto complainant's husband. Hence, the 2<sup>nd</sup> respondent lodged a complaint before the 1<sup>st</sup> respondent and a case was registered as against the petitioner in Crime No.1 of 2017.

4. The learned counsel for the petitioner submitted that the respondent police without proper investigation registered an F.I.R as against the petitioner in Crime No.1 of 2017. He further submitted that there are sufficient materials to show that the petitioner did not commit any offence as alleged by the prosecution. Hence, he prays to quash the F.I.R.

5. The learned Additional Public Prosecutor submitted that investigation has been completed and the 1<sup>st</sup> respondent is yet to file a final report. He further submitted that the allegation is related to land grabbing and since the Court dealing with Land Grabbing cases are not functioning, the 1<sup>st</sup> respondent seeks time to file the final report before the concerned jurisdictional Magistrate.

6. 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."

7. On perusal of the complaint, it is seen that there are specific allegations as against the petitioner to attract the offences under Sections Sections 420, 467, 468, 471 and 82(d). Hence, this Court does not find any merits to quash the investigation in Crime No.1 of 2017. Accordingly, this Criminal Original Petition is dismissed. However, considering the submission made by the learned Government Advocate (Crl.side), the 1<sup>st</sup> respondent is directed to file a final report before the learned Judicial Magistrate, Thirukovilur, within a period of three months from the date of receipt of copy of this order. Connected miscellaneous petition is also closed.

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Sd/-  
Assistant Registrar

//True copy//

Sub Assistant Registrar

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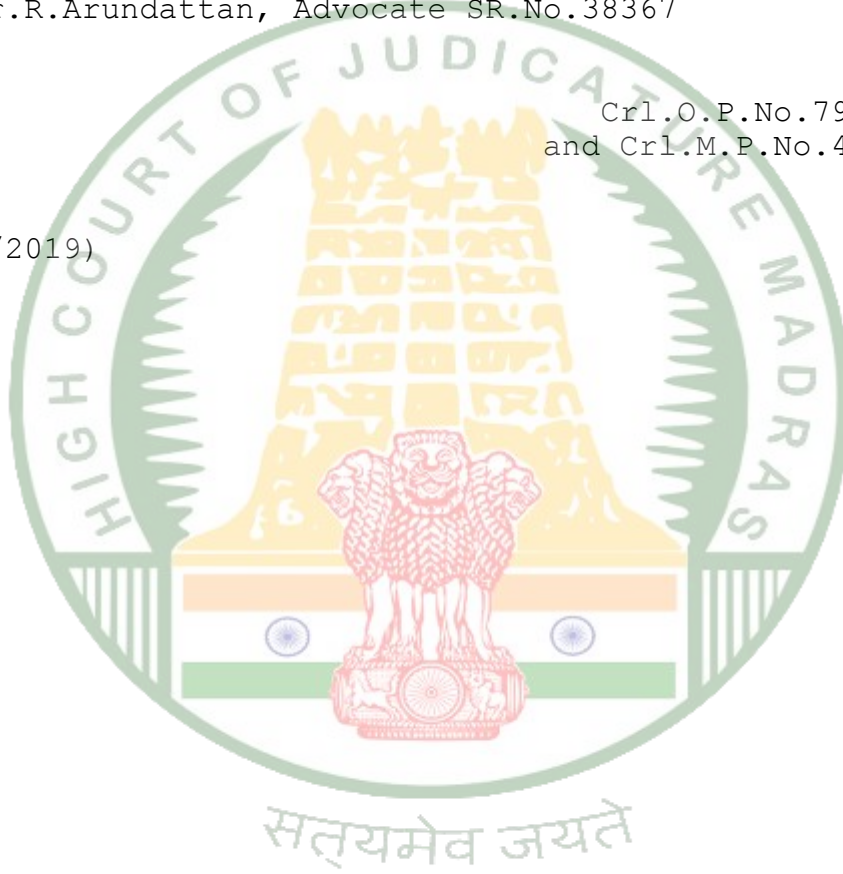
To

1. The Judicial Magistrate, Thirukovilur
2. -do-Through' The Chief Judicial Magistrate, Villupuram
3. The Inspector of Police,  
District Crime Branch  
Villupuram.
4. The Public Prosecutor, High Court, Madras.

+lcc to Mr.R.Arundattan, Advocate SR.No.38367

Crl.O.P.No.7994 of 2019  
and Crl.M.P.No.4339 of 2019

KK (CO)  
GMY (25/06/2019)



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