

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.9271 of 2019

and

Crl.M.P.No.4891 of 2019

Aravinth Ramalingam

... Petitioner

Vs.

1.State Rep. by
Inspector of Police
Team-VII, Fake Passport Wing
Central Crime Branch-I
Vepery, Chennai 600 007
Crime No.322 of 2018

2.C.Sushma
Deputy Passport Officer
Regional Passport Office
Royala Towers
No.2 and No.3, IV Floor
Old No.785, New No.158
Anna Salai, Chennai 600 002

.... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the Crime No.322 of 2018 on the file of the Inspector of Police, Team-VII, Fake Passport Wing, Central Crime Branch-1, Vepery, Chennai and quash the same by allowing this Criminal Original Petition.

For Petitioner : Mr.D.Vijayababu

For Respondents: Mr.Mohamed Riyaz for R1
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed by the petitioner to call for the records relating to the Crime No.322 of 2018 on the file of the Inspector of Police, Team-VII, Fake

Passport Wing, Central Crime Branch-1, Vepery, Chennai and quash the same by allowing this Criminal Original Petition.

2.The learned counsel for the petitioner submitted that the offence under Section 12(1A)(a), Passport Act, 1967 can be prosecuted only after the prior permission of the Central Government, which is mandatory under Section 15 of the Passport Act, 1967.

3.It is seen that the first respondent not only registered a case as against the petitioner for the offence under Section 12(1A)(a) of Passport Act, 1967, they have also registered a case for the offence under Section 420 IPC. It is seen clearly from the allegation made in FIR that the offence under Section 420 of IPC has been constituted. Hence, the points raised by the learned counsel for the petitioner cannot be considered and therefore, this Court is not inclined to quash the same. This petition is devoid of merits.

4.Further it is seen from the First Information Report that there is a specific allegation as against the petitioners, which has to be investigated. Further the FIR is not an encyclopedia and it need not contain all facts. Further, 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.

5.Further, 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, the Hon'ble Supreme Court of India has 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 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 discussions and as held by the Hon'ble Supreme Court of India, this Criminal Original Petition stands dismissed. However, the FIR is of the year

2018, the first respondent is hereby directed to complete the investigation and file a final report within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

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Sub Assistant Registrar

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To

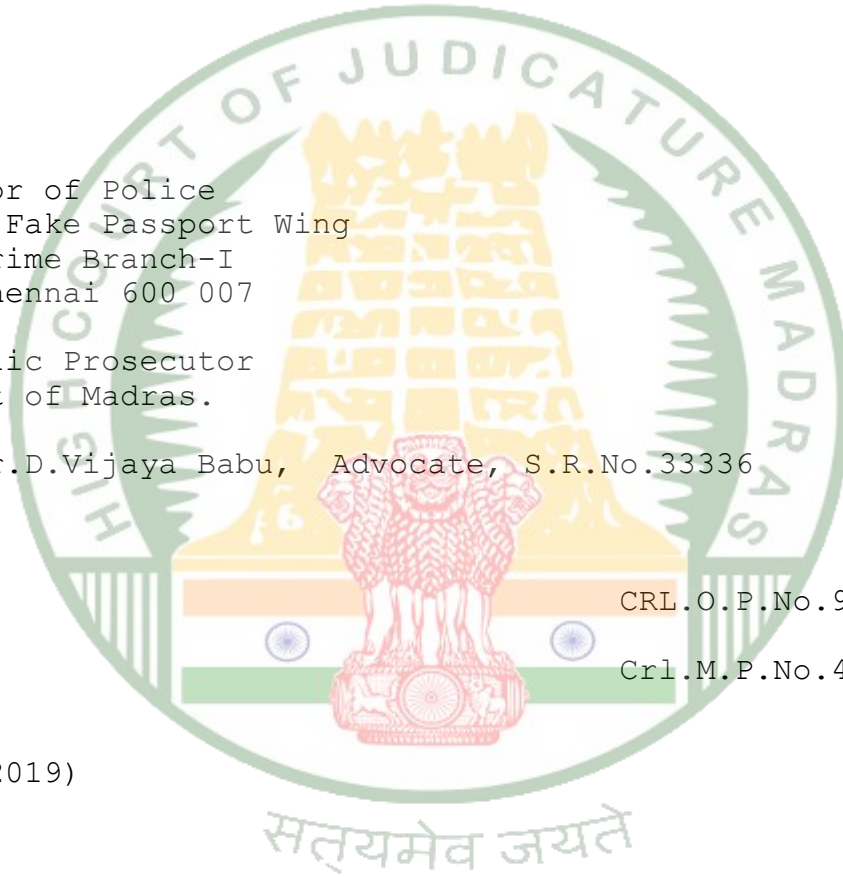
1. Inspector of Police
Team-VII, Fake Passport Wing
Central Crime Branch-I
Vepery, Chennai 600 007

2. The Public Prosecutor
High Court of Madras.

+2cc to Mr.D.Vijaya Babu, Advocate, S.R.No.33336

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KS (CO)
GN(22/05/2019)



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