

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2019

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.Nos.5993 and 5614 of 2014

1.R.Parvathi Muthunathan ... Petitioner
... in both crl.O.Ps.
2.Vanaja ... 2nd petitioner in
Crl.O.P.No.5993 of 2014

Vs.

1.State by The Inspector of Police,
R2, Kodambakkam Police Station,
Chennai.

2.Kasidurai. Respondent
in both Crl.O.Ps.

Common Prayer: Criminal Original Petitions filed under Section 482 Cr.P.C. to call for the records and quash the first information report registered in Crime Nos.1818 of 2013 and 604 of 2010 pending investigation on the file of the first respondent.

(in all Crl.O.Ps.)

For Petitioner : Mr.V.Paarthiban

For Respondent : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

COMMON ORDER

These petitions have been filed to quash the proceedings in Crime Nos.1818 of 2013 and 604 of 2010, pending on the file of the 1st respondent police.

2. The petitioners were arrayed as an accused in Crime Nos.1818 of 2013 and 604 of 2010 for the offences punishable under Sections 406, 420, 467 and 471 of IPC and 420 and 506(i) of IPC on the basis of complaint given by the 2nd respondent herein.

3. On perusal of records, it is seen that the petitioner is the son of Rajapandi Nadar, who died leaving his wife, petitioner/1st son, and daughters namely Rubi Ammal, Parvathy Ammal, Sakthikani and Chandra as legal heirs. The mother and two sisters decided to release their share in the house property in the year 2007 and two other sister viz. Ruby and Parvathy filed partition suit before the Principal District Judge, Thoothukudi in O.S.No.53 of 2009 and the husband of one of the sister Sakthikani has lodged a complaint as against the petitioner before the first respondent Police stating that the petitioner is trying to grab the entire property and the same was registered as Crime Nos.1818 of 2013 and 604 of 2010 respectively. Under such circumstances, the petitioner herein has filed the present petition to quash the F.I.R. In Crime Nos.1818 of 2013 and 604 of 2010, on the file of the first respondent.

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 Nos.1818 of 2013 and 604 of 2010. 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. Heard both sides.

6. It is relevant to extract the following observations made by the Hon'ble Supreme Court in the case of Sau. Kamal Shivaji Pokarnekhar vs. the State of Maharashtra & ors., in CrI.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. On perusal of the complaint, it is seen that there are specific allegations as against the petitioner to attract the offence under Sections 406, 420, 467 and 471 of IPC and 420 and 506(i) of IPC. Hence, this Court does not find any merits to quash the investigation in Crime Nos.1818 of 2013 and 604 of 2010. Accordingly, these Criminal Original Petitions are dismissed. However, considering the cases are of the year 2010 and 2013, it is appropriate to direct the respondent to conduct an enquiry and file a final report within a period of three months from the date of receipt of copy of this order.

Sd/-

Assistant Registrar (CJ Conf)

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Sub Assistant Registrar

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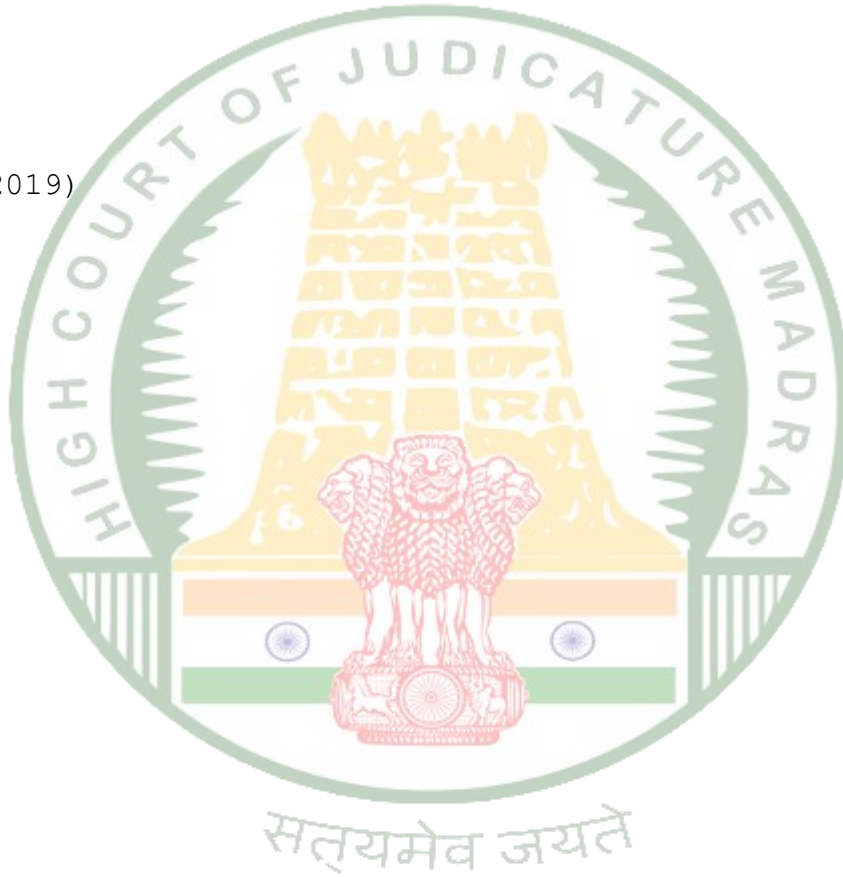
To

1.The The Inspector of Police,
R2, Kodambakkam Police Station,
Chennai.

2.The Public Prosecutor,
High Court, Madras.

CrI.O.P.Nos.5993 and 5614 of 2014

GN(03/06/2019)



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