IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.06.2021
PRONOUNCED ON : 22.07.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.8289 of 2021 and
Crl.M.P.No.5482 of 2021

V.Lakshmi ... Petitioner

Versus

1.STATE: Represented by,
The Inspector of Police,
Central Crime Branch,
EDF-II, Team-IX-A,
Commissioner's office building,
Vepery, Chennai-600 007.

2.R.K.Ganesan ... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.37 of 2020 on the file of the 1st respondent and quash the same as against the petitioner.

For Petitioner : Mr.R.John Sathyan

For R1 : Mr.A.Damodaran,
Government Advocate (Crl. Side)

For R2 : Mr.C.Iyyappa Raj

*****

ORDER

The petitioner/2nd accused in Crime No.37 of 2020 for offence under Sections 465, 468, 471, 420, 109, 54 and 506(i) IPC, has filed this Quash Petition.

2.The gist of the case is that the 2nd respondent hails from Kovilpatti, Thoothukudi District. He intended to purchase a property in Chennai. The 2nd respondent came to know about the petitioner and other accused through one Loganathan. In this case, A1 is the husband of the petitioner/A2; A3 is the wife of A4. The property is situated at Old No.16, New No.168, Main

Road, Rangarajapuram, Kodambakkam, consisting of 1731 ¾ sq.ft, of which A1 and the petitioner husband owned UDS 865 sq.ft, built up area 1180 sq.ft; A3 and A4 owned UDS 865 sq.ft, built up area 1400 sq.ft. A5 is the person, who purchased the first floor of the said property. A6, the Repco Bank, T.Nagar Branch, Chennai advanced loan to A5 for mortgaging the property.

3.A1 to A4 agreed to sell both ground floor and first floor for sale consideration of Rs.3,15,00,000/- to the 2nd respondent and the sale agreement was entered on 01.03.2018. In the sale agreement, the advance amount, the payment schedule were shown. The accused agreed to purchase the 2nd respondent's property in plot Nos.98 & 99 to the extent of 14,400 sq.ft, built up area of 2050 sq.ft in Nalla Farm House, Pattanur Village, Tiruchitrabalam. The value fixed for the Nalla Farm House property was Rs.2,00,00,000/- and the balance amount of Rs.1,15,00,000/- is to be paid by the 2nd respondent. The mode of payment of balance amount of Rs.1,15,00,000/- is as follows:-

- The 2nd respondent paid Rs.50,000/- in cash to A3 on 28.02.2018.

- The 2nd respondent paid Rs.24,50,000/- to A1 through RTGS from his bank viz., M/s.Tamil Nadu Mercantile Bank on 02.03.2018.

- The 2nd respondent paid Rs.20,00,000/- to A3 through cheque No.429393 on 06.03.2018.

- The 2nd respondent paid Rs.10,00,000/- and Rs.60,00,000/- on 27.07.2018 to A3. Totally, the balance amount of Rs.3,15,00,000/- was paid.

4.Despite accused receiving the entire sale consideration, failed to execute the sale deed in favour of the 2nd respondent. On the other hand, the Nalla Farm House property of the 2nd respondent was mortgaged by A1 with M/s.Tata Capital Housing Finance Limited, Kodambakkam, Chennai for Rs.1,00,00,000/-, on 27.07.2018, to settle the dues for the petitioner/A2 property at Pallikaranai, the petitioner and her husband entered into the Memorandum of Understanding with M/s.Tata Capital Housing Finance Limited, as though the 2nd respondent is a party to it. The said Memorandum of Understanding is a forged document. Likewise, A3 and A4, the owners of the first floor sold the property to A5. In turn, A5 availed a mortgage loan from A6, M/s.Repco Bank, T.Nagar, Chennai without original documents. When the 2nd respondent questioned the act of the accused, he was threatened to be done away. Further the accused claim that they have man power and high connections and nothing could be done to them. The value of Nalla Farm House of the 2nd respondent is to the tune of Rs.2,00,00,000/-. Even before executing the sale deed of Rangarajapuram, Kodambakkam property, using a forged Memorandum of Understanding for Nalla Farm House property, this property mortgaged with M/s.Tata Capital Housing Finance Limited. Thus, A1 to A6 with common intention abetted each other, committed the offence of forgery and thereby, cheated the 2nd respondent.

5.The learned counsel for the petitioner submitted that the 2nd respondent entered into an agreement of sale with A1, who is the husband of the petitioner and A3, who is the owner of the first floor on 01.03.2018 for sale of entire property situated at Old No.16, New No.168, Main Road, Rangarajapuram, Kodambakkam and the sale price was fixed at Rs.3,15,00,000/-. The 2nd respondent agreed to exchange Nalla Farm House in plot Nos.98 & 99 at Pattanur Village, Tiruchitrambalam and the value fixed at Rs.2,00,00,000/- to be given credit. As per the agreement, the 2nd respondent executed a sale deed in favour of A1 on 15.10.2018 as document No.4855 of 2018 before the Sub Registrar Office, Vanur and thereafter, some payments were made to A1 and A3. After receiving the balance payment of Rs.1,50,00,000/-, A1 and A3 failed to execute a sale deed in favour of the 2nd respondent. The allegation is that the petitioner along with her husband/A1 created forged Memorandum of Understanding dated 27.07.2018 in favour of M/s.Tata Capital Housing Finance Limited and mortgaged Nalla Farm House, Pattanur Village and received Rs.1,00,00,000/-. Using the same, A1 and the petitioner redeemed their Pallikaranai property, hence offence committed is far fetched.

6.The learned counsel for the petitioner further submitted that the act of A1 and A3 in this case are independent. In this case, the first floor was registered in favour of A5 by A3 in turn A5 mortgaged the same with A6/M/s.Repco Bank, T.Nagar, Chennai, for which the petitioner has nothing to do with them. With the help of her father, the petitioner had purchased the property in plot No.93, V.G.P Santhi Nagar Extension, Pallikaranai Village vide document No.2031 of 2009, dated 11.05.2009. The said property was mortgaged with M/s.Tata Capital Housing Finance Limited, Kodambakkam, Chennai on 04.08.2017 and the property was later redeemed on 23.11.2018. The petitioner had executed a sale deed in document No.5868 of 2019 on 23.05.2019 in favour of the 2nd respondent and his wife for the plot No.93, Pallikaranai Property. The value of the property is around Rs.91,00,000/-.

7.The further contention of the petitioner is that Nalla Farm House property was mortgaged for Rs.1,00,00,000/- by A1, the same was used to redeem Pallikaranai property of the petitioner valued around Rs.91 lakhs. Now, the petitioner almost equally compensated for the loan amount availed from

M/s.Tata Capital Housing Finance Limited, Kodambakkam, by mortgaging Nalla Farm House property. The petitioner has no role to the dispute with regard to the sale of ground floor and first floor of Rangarajapuram property. The ground floor is owned by A1 and the second floor is owned by A3. Now, A3-Kamatchi died. Admittedly, in this case, the petitioner did not sign any document in the entire transaction. The 2nd respondent by using arm twisting method to somehow grab the property of A1 and A3. The 2nd respondent made unqualified, omnibus allegation and there is nothing to show that the petitioner had colluded with other accused in commission of offence.

8.The learned counsel for the petitioner further submitted that the 2nd respondent might have some dispute with A1 and the petitioner has got nothing to do with it. The petitioner being wife of A1, has been falsely implicated in this case. The petitioner never interacted with the 2nd respondent and deceived him and made any wrongful gain. The learned counsel further submitted that on the above facts, the offence under Section 109 cannot be projected against the petitioner. As far as the petitioner is concerned, she never threatened the 2nd respondent and hence, the offence under Section 506(i) IPC will not get attracted. It is seen that the petitioner has not created or signed any document. Hence, the question of forgery for the purpose of cheating would not arise against her.

9.The learned counsel further submitted that the 2nd respondent is not a clean person. A civil dispute is being given a criminal colour. The 2nd respondent on 05.05.2018 had executed a power of attorney in favour of A4, the husband of A3. Using the power of attorney, Memorandum of Understanding was executed in favour of A1 and later, the power of attorney was cancelled. On 18.03.2020, the advance amount of Rs.25,00,000/- received by her husband/A1 returned through RTGS. Further, there is rental agreement executed by the 2nd respondent in favour of one Haridoss for the property of A1 situated at Old No.16, New No.168, Main Road, Rangarajapuram, Kodambakkam. From the rental agreement, it is seen that the 2nd respondent had taken possession of the ground floor of Rangarajapuram, Kodambakkam property on 01.08.2019. In fact, A1 lodged a complaint to the Commissioner of Police, Vepery, Chennai on 21.08.2019 much before lodging of the complaint by the 2nd respondent and the same was not enquired. In the said complaint, A1 clearly mentions about the transactions between him and the 2nd respondent. Thus, the petitioner and her husband/A1 were cheated by the 2nd respondent. As a counter blast, the above complaint was lodged by the 2nd respondent. The 1st respondent Police without conducting proper enquiry had registered an FIR against the petitioner and five others. Hence, prayed for quashing of the FIR.

10.In support of his contention, the learned counsel for the petitioner relied on the case of "P.Kapoor Versus State of Punjab reported in MANU SC 0086 1960 and the State of Haryana Versus Bhajan Lal and Others reported in MANU SC 0115 1992".

11.The learned Government Advocate (Crl. Side) appearing on behalf of the 1st respondent Police submitted that in this case, the complaint was received from the 2nd respondent on 12.11.2019 and thereafter, it was forwarded to the 1st respondent Police through official channel. After enquiry and verification of the documents, FIR came to be registered against the petitioner and five others on 03.02.2020. After registration of the case, A1 was arrested, at that time he confessed about the commission of offence and the active role played by the petitioner and the other accused in creating forged documents and cheating the 2nd respondent.

12.The learned Government Advocate further submitted that A1 and A3 are the owners of the property situated at Old No.16, New No.168, Main Road, Rangarajapuram, Kodambakkam. The 2nd respondent was approached by one Loganathan who informed and introduced A1 and A3, who wanted to sell their property. The 2nd respondent entered into Sale agreement with A1 and A3, on 01.03.2018. As per the sale agreement, the 2nd respondent made payments. The portion of the sale consideration to the tune of Rs.2,00,00,000/- was adjusted by the 2nd respondent by executing sale deed of his property situated at Nalla Farm House, Pattanur Village and the balance amount of Rs.1,15,00,000/- was paid through bank transactions. In this case, A1 and A3 have received the entire sale consideration of Rs.3,15,00,000/-. In the meanwhile, on the representation of the accused, the 2nd respondent executed a power of attorney in favour of A4 and A4 using the power of attorney had executed a Memorandum of Understanding for Nalla Farm House property to create mortgage, the Beneficiary being A1 & petitioner A2. On 23.11.2018 the property was mortgaged with M/s.Tata Capital Housing Finance Limited, who sanctioned the loan of Rs.1,00,00,000/-. The mortgaged amount was adjusted for the dues of the petitioner's Pallikaranai property. The petitioner executed a sale deed in favour of the 2nd respondent for Pallikaranai property on 23.05.2019. In the meanwhile, it is found that Rangarajapuram, Kodambakkam property was also mortgaged by depositing the title deed with M/s.Tata Capital Housing Finance Limited, Kodambakkam, Chennai in document No.4756 of 2017, dated 13.11.2017. This mortgage is yet to be released and the property is under charge. In the meanwhile, A3 and A4 executed a sale deed for the first floor of Rangarajapuram Kodambakkam property in favour of A5 and thereby encumbrance created. A5 created charge on the first floor of Rangarajapuram, Kodambakkam property with A6/M/s.Repco Bank, T.Nagar, Chennai. Thus, the entire Rangarajapuram property is now under entanglement. Despite receipt of the sale consideration of Rs.3,15,00,000/-, no sale deed was executed in favour of 2nd respondent. Except executing a sale deed of Pallikaranai property valued less than Rs.97,00,000/-, the balance amount is not returned.

13.Thus, all the accused with common intention abetted each other and committed the offence of creating forged documents and by using the same as genuine, intentionally cheated the 2nd respondent. The accused not only cheated the 2nd respondent, but also the public funds of A6/M/s.Repco Bank, T.Nagar Branch, Chennai. Hence, thorough investigation is needed to unearth the deep rooted conspiracy.

14.Further, the documents have to be secured and seized and the specimen signature are to be obtained and to be sent to forensic study. The petitioner had violated the undertaking given before this Court while obtaining anticipatory bail. Hence, necessary steps to be taken against her. The investigation is in progress and the officials of M/s.Tata Capital Housing Finance Limited, Kodambakkam, Chennai and registration authorities and the role played by Loganathan and others are to be investigated. The petitioner cannot now attempt to absolve herself by shifting blame on her husband/A1 and A3 who is no more. The materials collected sofar clearly reveal the active role played by the petitioner in commission of the offence with the other accused and hence opposed the Quash Petition.

15.The learned counsel for the 2nd respondent submitted that the petitioner along with her husband/A1 and co-accused/A3 and A4, deceitfully lured the 2nd respondent to part with his property in Nalla Farm House, Pattanur Village and lured him to pay huge sums of money. Though the agreement for sale for Rangarajan, Kodambakkam property was entered between the 2nd respondent and A1 & A3, right from execution of agreement for sale, the accused had no intention to sell the property to the 2nd respondent. The sale agreement is only to lure the 2nd respondent to part with his property viz., Nalla Farm House and to pay huge sums of money. The Nalla Farm property is valued around Rs.2,00,00,000/- and the balance Rs.1,15,00,000/- was paid on various dates mostly through bank transactions. The petitioner being the wife of A1 had earlier mortgaged her Pallikaranai property with M/s.Tata Capital Housing Finance Limited. The Nalla Farm House property of the 2nd respondent was mortgaged with M/s.Tata Capital Housing Finance Limited for Rs.1,00,00,000/-. By using the mortgage amount, Pallikaranai property of the petitioner was redeemed and the sale deed of

Kodambakkam property not executed in favour of the 2nd respondent. Now the 2nd respondent lost the property of Nalla Farm House at Pattanur Village valued around Rs.2,00,00,000/- and also paid Rs.1,15,00,000/-. The 2nd respondent lost both his property and cash. The Kodambakkam property is now mortgaged and encumbered.

16.The learned counsel for the 2nd respondent further submitted that contrary to the sale agreement, A1 mortgaged the ground floor of Rangarajan, Kodambakkam property with M/s.Tata Capital Housing Finance Limited. A3 in connivance with the other accused created a sale deed for the first floor of Rangarajan Kodambakkam property in favour of A5, in turn A5 mortgaged the first floor with A6/M/s.Repco Bank, T.Nagar, Chennai and created encumbrance. The 2nd respondent agreed to purchase the Kodambakkam property as a whole, since the owner of ground floor and first floor namely A1 and A3 agreed to sell the same. On the representation of A1 to A4, the 2nd respondent agreed to purchase the entire Rangarajapuram, Kodambakkam property and paid huge sums of money to the tune of Rs.3,15,00,000/-.

17.It is further submitted that when the petitioner obtained Anticipatory Bail before this Court, she gave an undertaking that she and her husband/A1 would take all steps to discharge mortgage clear encumbrance created on Rangarajapuram, Kodambakkam property and would execute sale deed in favour of the 2nd respondent. On such undertaking, this Court granted Anticipatory Bail. Thereafter, the undertaking was not complied with. The 1st respondent Police for the reason best known failed to take the petitioner into custody, despite she violated the undertaking given before this Court.

18.He further submitted that the FIR is not an encyclopaedia. On citing the above petition, the investigation in this case is attempted to be thwarted. The petitioner's active role in connivance with the other accused is very much apparent. The documents would speak volumes about the role of the petitioner. In all the meetings and registration of the documents at Sub Registrar Office, Vanur and the Sub Registrar Office, Saidapet, the petitioner and her husband/A1 actively played the role. The contention of the petitioner that A1 and A3 are the owners of Rangarajapuram, Kodambakkam property and she has got nothing to do with them cannot be accepted. Hence, he strongly opposed the Quash Petition.

19.In support of his submission, the learned counsel for the 2nd respondent relied on the judgment of the Hon'ble Apex Court in the case of "M/s.Neeharika Infrastructure Private Limited Versus State of Maharashtra & others reported in CDJ 2021 SC 281."

20.This Court considered the rival submissions and perused the materials available on record.

21.The agreement for sale has been entered between the 2nd respondent and A1 & A3 on 01.03.2018 to sell the property situated at Old No.16, New No.168, Main Road, Rangarajapuram, Kodambakkam, consisting of 1731 ¾ sq.ft, of which A1 and the petitioner owned UDS 865 sq.ft, built up area 1180 sq.ft; A3 and A4 owned UDS 865 sq.ft, built up area 1400 sq.ft. The 2nd respondent entered into the sale agreement to purchase the entire property. The sale consideration was fixed at Rs.3,15,00,000/- and the mode of payment have been detailed in the agreement. For the sale consideration, Rs.2,00,00,000/- was agreed to be given credit as sale in favour of the vendor of the 2nd respondent's property viz., Nalla Farm House at Pattanur Village. The balance payments were made through the bank and by cash. As per the agreement, the 2nd respondent paid the entire sale consideration of Rs.3,15,00,000/-. Thereafter, it is found that the 2nd respondent was deceived and cheated by the accused by creating forged documents. The petitioner earlier mortgaged her Pallikaranai property with M/s.Tata Capital Housing Finance Limited, Kodambakkam, Chennai. The 2nd respondent executed the sale consideration of Nalla Farm House in favour of A1. A1 mortgaged the same with M/s.Tata Capital Housing Finance Limited, Kodambakkam, Chennai for Rs.1,00,00,000/- adjusted to discharge the liability of the petitioner's Pallikaranai property. Thus, the petitioner discharged the loan liability of the property situated at Pallikarani by mortgaging the property of the 2nd respondent. Now, the petitioner's explanation that Pallikaranai property is valued around Rs.91 lakhs, through document No.5868 of 2019, dated 23.05.2019 has been conveyed and the account has been set right and with regard to non execution of the sale deed with regard to Rangarajapuram, Kodambakkam property is concerned, the petitioner is no way involved are not acceptable. It is seen that the petitioner purchased Pallikarani property on 11.05.2009 and the property was mortgaged with the Bank of India and later with M/s.Tata Capital Housing Finance Limited, Kodambakkam, Chennai. The entire mortgaged loan with M/s.Tata Capital Housing Finance Limited, Kodambakkam, Chennai has been cleared by the petitioner on 23.11.2018. This mortgage had been cleared for Rs.92,27,000/-. This amount of Rs.92,27,000/- is an adjustment, which is done on the false representation of the petitioner and the 2nd respondent was made to believe that all encumbrance to the Kodambakkam property is cleared and the clear Title for Kodambakkam property was assured and promised.

22.After clearance of mortgage loan, a sale deed for Pallikaranai property was executed by A3 vide document No.5868 of 2018, dated 23.05.2019. A1 has signed as witness in all the transactions. Thus, A1 and A2 were present during the entire transaction through and through. As per the sale agreement, one of the condition that Rs.2,00,00,000/- has to be adjusted in the purchase price of the property by the 2nd respondent in exchange of his property at Nalla Farm House. The 2nd respondent purchased the plot Nos.98 & 99 in Nalla Farm House through document No.4785 of 2016. A power of attorney document No.3069 of 2018, dated 05.07.2018 was executed in favour of A4. Thereafter, the power of attorney was cancelled vide document No.4854 of 2018, dated 15.08.2018. In the meanwhile, it is seen that M/s.Tata Capital Housing Finance Limited had given a legal opinion on 31.08.2018. At that time, all the documents pertaining to Nalla Farm House property were scrutinized. Scrutinizing of documents proceeded primarily on the power of attorney given to A4 and nowhere, it is mentioned that the power of attorney has been cancelled.

23.For the Nalla Farm House property, a sale deed in favour of A1 has been executed in document No.4855 of 2018, dated 01.11.2018. In the said document, A4 and Loganathan are the witnesses. Thus, for processing of mortgage loan from M/s.Tata Capital Housing Finance Limited, Kodambakkam, Chennai, the cancellation of the power of attorney was not mentioned. The agreement of sale entered between the power of attorney Suresh Babu (A4) on behalf of the 2nd respondent and A1 in this case has been falsely projected not disclosing the cancellation of the power of attorney. Thus, with the clear deceitful mind mortgage loan with M/s.Tata Capital Housing Finance Limited, Kodambakkam, Chennai with false documents processed, approved and received.

24.It is seen that the sale agreement dated 01.03.2018 was entered between the 2nd respondent and A1 & A3. A3's share of Rangarajapuram, Kodambakkam property has been purchased by A5 in this case and a reference is made in document No.4755 of 2017, dated 13.11.2017. On the same day, A5 availed the housing loan from M/s.Tata Capital Housing Finance Limited to the tune of Rs.70,23,000/- by depositing the title deeds of Rangarajapuram, Kodambakkam property in document No.4756 of 2019. This agreement has been signed by A1 and A3 as vendors, and A4 and Loganathan as witnesses. The power of attorney document and cancellation document have been signed by Loganathan and A5. The said sale deed for Nalla Farm House property have been signed by Loganathan and one Bharathiraja. The receipt for discharging the mortgage loan for the petitioner's Pallikaranai property is signed by A1 as witness. Thus all the accused had participated in the Transaction.

25.The petitioner admits that she is only a house wife and being the wife of A1, she has been falsely implicated in this case. It is her husband, who created such documents and she is not to be prosecuted. The petitioner admits that she is a house wife having no income. The discharge of mortgage of Pallikaranai property is not in dispute and the source for clearing mortgage is based on the 2nd respondent's property.

26.On one hand Nalla Farm House gone into the hands of A1, on the same breadth Rangarajapuram Kodambakkam property documents are with M/s.Tata Capital Housing Finance Limited. Thereby, encumbrance has been created by using the forged documents which clearly reveals the role played by each of the accused. The petitioner's contention that Rs.25,00,000/- have been repaid vide receipt dated 18.03.2020 will not absolve her from the case. On perusal of the agreement for sale dated 01.03.2018, it is seen that there have been excess payment of Rs.25,00,000/- over and above agreed sale consideration of Rs.3,15,00,000/-.

27.The Apex Court in the case of "M/s.Neeharika Infrastructure Private Limited Versus State of Maharashtra & others reported in CDJ 2021 SC 281 ; AIR 2021 SC1918" had issued guidelines in quashment of FIR are as follows:-

> "23. In view of the above and for the reasons stated above, our final conclusions on the principal/core issue, whether the High Court would be justified in passing an interim order of stay of investigation and/or "no coercive steps to be adopted", during the pendency of the quashing petition Under Section 482 Code of Criminal Procedure and/or Under Article 226 of the Constitution of India and in what circumstances and whether the High Court would be justified in passing the order of not to arrest the Accused or "no coercive steps to be adopted" during the investigation or till the final report/chargesheet is filed Under Section 173 Code of Criminal Procedure, while dismissing/disposing of/not entertaining/not quashing the criminal proceedings/complaint/FIR in exercise of powers Under Section 482 Code of Criminal Procedure and/or Under Article 226 of the Constitution of India, our final conclusions are as under:
>
> i) Police has the statutory right and duty under the relevant provisions of the Code of Criminal Procedure contained in Chapter XIV of the Code to investigate into a cognizable offence;
>
> ii) Courts would not thwart any investigation into the cognizable offences;
>
> iii) It is only in cases where no cognizable offence or offence of any kind is

disclosed in the first information report that the Court will not permit an investigation to go on;

iv) The power of quashing should be exercised sparingly with circumspection, as it has been observed, in the 'rarest of rare cases (not to be confused with the formation in the context of death penalty).

v) While examining an FIR/complaint, quashing of which is sought, the court cannot embark upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR/complaint;

vi) Criminal proceedings ought not to be scuttled at the initial stage; vii) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;

viii) Ordinarily, the courts are barred from usurping the jurisdiction of the police, since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere;

ix) The functions of the judiciary and the police are complementary, not overlapping;

x) Save in exceptional cases where non-interference would result in miscarriage of justice, the Court and the judicial process should not interfere at the stage of investigation of offences;

xi) Extraordinary and inherent powers of the Court do not confer an arbitrary jurisdiction on the Court to act according to its whims or caprice;

xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

xiii) The power Under Section 482 Code of Criminal Procedure is very wide, but conferment of wide power requires the court to be more cautious. It casts an onerous and more diligent duty on the court;

xiv) However, at the same time, the court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P. Kapur (supra) and Bhajan Lal (supra), has the jurisdiction to quash the FIR/complaint;

xv) When a prayer for quashing the FIR is made by the alleged Accused and the court when it exercises the power Under Section 482 Code of Criminal Procedure, only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR;

xvi) The aforesaid parameters would be applicable and/or the aforesaid aspects are required to be considered by the High Court while passing an interim order in a quashing petition in exercise of powers Under Section 482 Code of Criminal Procedure and/or Under Article 226 of theConstitution of India. However, an interim order of stay of investigation during the pendency of the quashing petition can be passed with circumspection. Such an interim order should not require to be passed routinely, casually and/or mechanically. Normally, when the investigation is in progress and the facts are hazy and the entire evidence/material is not before the High Court, the High Court should restrain itself from passing the interim order of not to arrest or "no coercive steps to be adopted" and the Accused should be relegated to apply for anticipatory bail Under Section 438 Code of Criminal Procedure before the competent court. The High Court shall not and as such is not justified in passing the order of not to arrest and/or "no coercive steps" either during the investigation or till the investigation is completed and/or till the final report/charge sheet is filed Under Section 173 Code of Criminal Procedure, while dismissing/disposing of the quashing petition Under Section 482 Code of Criminal Procedure and/or Under Article 226 of the Constitution of India.

xvii) Even in a case where the High Court is prima facie of the opinion that an exceptional case is made out for grant of interim stay of further investigation, after considering the broad parameters while exercising the powers Under Section 482 Code of Criminal Procedure and/or Under Article 226 of the Constitution of India referred to hereinabove, the High Court has to give brief reasons why such an interim order is warranted and/or is required to be passed so that it can demonstrate the application of mind by the Court and the higher forum can consider what was weighed with the High Court while passing such an interim order.

xviii) Whenever an interim order is passed by the High Court of "no coercive steps to be adopted" within the aforesaid parameters, the High Court must clarify what does it mean by "no coercive steps to be adopted" as the term "no coercive steps to be adopted" can be said to be too vague and/or broad which can be misunderstood and/or misapplied.

28.In view of the above discussion and on the guidelines of the Apex Court, this Court finds that the points raised by the petitioner cannot be countenanced. Hence, this Court is not inclined to quash the FIR against the petitioner. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vv2

To

1.The Inspector of Police,
   Central Crime Branch,
   EDF-II, Team-IX-A,
   Commissioner Office Building,
   Vepery, Chennai-600 007.

2.The Public Prosecutor,
   High Court, Madras.

+1CC to M/s. C.Iyappa Raj, Advocate SR.No.34859
+1CC to M/s. R.John Sathyan, Advocate SR.No.34735

Crl.O.P.No.8289 of 2021

PMK CCO)
B.VC (16.08.2021)