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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P. No.2349 of 2022 & Crl.M.P.No.1034 of 2022

1. Hazeena Alias R.Srimathy
2. R.Sulaiman ... Petitioners/Accused A2 & A1

Vs.

1. State represented by
Inspector of Police [Crime],
Egmore Police Station,
Chennai - 600 008.
[Crime No.730 of 2021]
2. R.Sivakumar ... Respondents/Complainant/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to Crime No.730 of 2021 dated 28.11.2021 on the file of the first respondent police and quash the same.

For Petitioners : Mr.R.Narayanan

For Respondents : Mr.Leonard Arul Joseph Selvam
Government Advocate(Crl.Side)-R1
Mr.K.Gowthaman - R2

O R D E R

This Criminal Original Petition has been filed to quash the First Information Report filed for the alleged offences under section 468, 471 of IPC.

2. The allegations in the First Information Report indicate that the petitioners have forged the documents to show as if their grandfather G.Ramakrishnan attempted to obtain legal heir certificate. The specific allegation in the First Information Report relate to forgery of certain documents which require proper investigation. Though it is the contention of the learned counsel appearing for the petitioners that it is purely forging of legal heir certificate and the matter is also pending revision between the parties, this Court is of the view that the same is not a ground to quash the First Information Report.



3. In this regard it is relevant to refer the latest judgment of the Apex Court in CrI.A.No.741 of 2022, wherein the Honourable Supreme Court has held as follows :

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"The Court interferes in criminal proceedings, in exercise of the power under Section 482 of the Cr.P.C., in rare and exceptional cases, to give effect to the provisions of the Cr.P.C. or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

While exercising jurisdiction under Section 482 of the Cr.P.C., the High Court should not ordinarily embark upon an enquiry into whether there is reliable evidence or not. The jurisdiction has to be exercised sparingly, carefully and with caution only when such exercise is justified by the specific provisions of Section 482 of the Cr.P.C. Itself.

The criminal proceedings can be said to be an abuse of the process of Court, to warrant intervention under Section 482 Cr.P.C., when the allegations in the FIR do not at all disclose any offence or there are materials on record from which the Court can reasonably arrive at a finding that the proceedings are in abuse of the process of the Court.

In this case, it appears that the High Court fell in error in taking an adverse view only because the complainant had not challenged the genuineness of the will by bringing any action in a Court of law and further, the respondents had brought a suit for injunction against the complainant. There can be no doubt that in the civil suit, the burden would be on the plaintiff relying on a will to establish the genuineness of the will on the basis of which relief/permanent injunction is claimed. However, that does not prevent the accused, who can be defendants in such a civil suit from initiating criminal proceedings on the contention that the will is forged/fabricated."

4. In the light of the above judgment and the fact that the allegations in the First Information Report indicate that cognizable offence has been prima facie made out, the same has to be properly investigated by the investigating Agency, this Court is of the view that at this stage this Court cannot go into the factual aspects while exercising its jurisdiction under section 482 of Cr.P.C.



5. Accordingly, his Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

vrc

To

1. The Commissioner of Police,
O/o.The Commissioner,
132, EVK Sampath Road,
Vepery, Periamet, Chennai - 600 007.
 2. The Inspector of Police,
F-9, Thiru.Vee. Ka Nagar Police Station,
Puliyanthoppu District, Chennai.
 3. The Public Prosecutor,
High Court of Madras.
- +3cc to Mr.R.Narayanan, Advocate, S.R.No.33893

Crl.O.P. No.2349 of 2022

AD(CO)
SB(01/07/2022)