



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD) No.1605 of 2020

and

Crl.M.P.(MD) No.747 of 2020

Perumal

...Petitioner/Accused No.1

Vs.

1. State represented by the
Inspector of Police,
Nanguneri Police Station,
Nanguneri,
Tirunelveli District.
(Crime No.435 of 2019)

... Respondent/Complainant

2. Eliyesar Joseph

... Respondent/Defacto Complainant

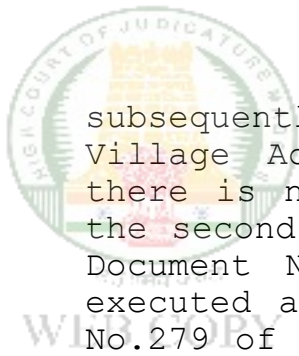
PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to call for the First Information Report in Crime No.435 of 2019 on the file of the Inspector of Police, Nanguneri Police Station, Nanguneri, Tirunelveli District and subsequently quash the same as illegal, erroneous and devoid of merits in respect of the petitioner forthwith.

For Petitioner	:	M/s.S.Palani Velayutham
For R1	:	Mr.R.M.Anbunithi Additional Public Prosecutor
For R2	:	Mr.M.Saravana Kumar

ORDER

This petition has been filed to quash the FIR in crime No.435 of 2019, on the file of the Inspector of Police, Nanguneri Police Station, Tirunelveli.

2.The case of the prosecution is that the second respondent is the power agent of his daughter and son in law. They were owning a property in S.Nos.45/4, 45/5, 46/1, 47, 52/1 and 52/2 measuring to an extent of 65 acres at Rajakkamangalam Village, Nanguneri Taluk, Tirunelveli District. The said property was in possession of the second respondent in the capacity of power agent. The petitioner's name had been wrongly mentioned in the revenue records with regard to the property in S.Nos.52/1B and 52/2B and subsequently on the basis of the order passed by the Sub Collector, Cheranmahadevi, Tirunelveli District made in Ni.Mu.2043/2015, dated 03.12.2016, the name of the petitioner had been deleted from the revenue records and



subsequently, the same had been communicated to the office of the Village Administrative Officer of the concerned village. Hence, there is no right for the petitioner in the said property. Then, the second accused had created a forged relinquishment deed bearing Document No.310 of 2001 and on that basis he had subsequently, executed a sale deed in favour of the third accused vide Document No.279 of 2008 in S.Nos.45/4, 45/5, 46/1, 46/2 and 47 measuring to an extent of 9 acres 68 ½ cents situated at Rajakkamangalam Village, Nanguneri Taluk, Tirunelveli District.

3.The learned Counsel appearing for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.435 of 2019 for the offences under Sections 467, 466, 427 and 379 of IPC.

4.The learned Additional Public Prosecutor would submit that the investigation is completed and the respondent police are about to file the final report before the concerned court.

5.Heard both sides and perused the materials available on record.

6. It is seen from the First Information Report that there are specific allegation as against the petitioner, 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.

7.It is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in **Crl.A.No.255 of 2019** dated **12.02.2019 - Sau. Kamal Shivaji Pokarnekhar vs. the State of Maharashtra & ors.**, 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.

6.....

7.....

8.....

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."

8. In view of the above discussion, this Court is not inclined to quash the First Information Report. Hence this Criminal Original Petition stands dismissed. The first respondent police is directed to complete the investigation and file final report before the



concerned Magistrate, within a period of twelve weeks from the date of receipt of a copy of this Order. Consequently, connected miscellaneous petition is closed.

9.However, the petitioner is at liberty to challenge the final report, which will be filed by the first respondent police, in manner known to law.

Sd/-

Deputy Registrar (LA&MC)

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/ /2022

Sub Assistant Registrar(CS)

lr

To

1. The Inspector of Police,
Nanguneri Police Station,
Nanguneri,
Tirunelveli District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.M.SARAVANAKUMAR, Advocate (SR-10493[F]
dated 08/03/2022)

Crl.O.P.(MD) No.1605 of 2020
07.03.2022

KG(CO)

GC(23.03.2022) 4P 4C