



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2022

CORAM:

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

Crl.O.P.(MD)No.7073 of 2022

and

Crl.M.P(MD) No.4861 of 2022

WEB COPY

1. J. Malarvizhi
2. J. Induja
3. J.Deepak

... Petitioners/Accused Nos 1 to 3
Vs

1. The Inspector of Police
District Crime Branch
Sivagangai District

2. SA.Ameensha ... Respondents/Complainant

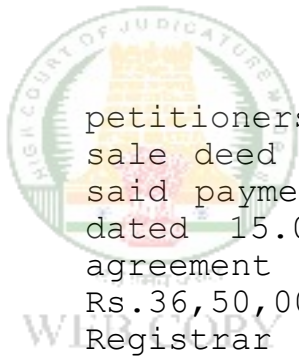
Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to Call for the records pertaining to the case in Crime No.01 of 2022 on the file of the Inspector of Police, District Crime Branch, Sivagangai District and quash the same.

For Petitioners	:	Mr.S. Balaji
For Respondents	:	Mr.R.M.Anbunithi
No.1		Additional Public Prosecutor
No.2	:	Mr.R.Selvan

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No.01 of 2022 on the file of the first respondent police.

2. The case of the prosecution is that the second respondent was interested in purchasing the land of 2 acres 45 cents comprised in S.No.196/2 situated at Thiruvalur Village, Elayankudi Taluk, Sivagangai District while belongs to one Karunanidhi, husband of the first petitioner herein and the father of second and third petitioners herein. The second respondent had communicated with the said Karunanidhi to sell the property to him, meanwhile on 12.11.2014 the said Karunanidhi died. Thereafter the second respondent approached the legal heirs of the Karunanidhi, petitioners herein to sell the property to him and they are willing to sell the property to him. Hence on 15.09.2016 the petitioners herein created sale deed and in that sale deed the second respondent and the petitioners signed. In that sale deed page No.8, it is stated that the purchaser second respondent herein had paid total consideration of Rs.62,50,000/- in a piecemeal manner to Mr.D.Karunanidhi and vendors, they are admit and acknowledged. The



petitioners further submit that second respondent has sought for the sale deed or repayment, the accused persons has not paid the above said payment and the accused have issued receipt in a bond paper dated 15.09.2016, thereafter the petitioners entered into sale agreement with Sigamani and Rajapandi for the amount of Rs.36,50,000/- vide document No.842/2017 before the Elayangudi Sub Registrar Office. Further the second respondent narrated in the complaint that on 16.09.2016 he had spent money Rs.4,36,500/- through E. Service Centre for registration and has lost the said money. Further the defacto complainant sought to have cancelled the sale agreement entered with Sigamani and Rajapandi between the petitioners and take action against the petitioners, hence the present case came to be registered.

3. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution.

4. The learned Additional Public Prosecutor would submit that the investigation is almost 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 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.

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 Pokarnekar vs. the State of Maharashtra & ors.**, where in it is held 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. However, the 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.

WEB COPY

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

aav

To

- 1.The Inspector of Police
District Crime Branch
Sivagangai District
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P.(MD)No.7073 of 2022
and
Crl.M.P(MD) No.4861 of 2022
18.04.2022

CK(CO)
GC(27.04.2022) 4P 3C