



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2022

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)No.13166 of 2020

and

Crl.M.P(MD)No.6028 of 2020

WEB COPY

A.S.Siva Sankar

... Petitioner/Accused No.8

Vs.

1.The Inspector of Police,
City Crime Branch,
Tirunelveli City.
In Crime No.7 of 2020.

... 1st Respondent/Complainant

2.N.Ponnusamy

... 2nd Respondent/
Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the impugned F.I.R in Crime No.7 of 2020 on the file of the first respondent and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.I.Suthakaran

For R - 1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

For R - 2 : Mr.S.S.Velrajan

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No.7 of 2020 on the file of the first respondent.

2. The case of the prosecution is that a portion of the properties situated in Survey No.503/2 in Kulavanigarapuram Village, Tirunelveli District had obtained by one P.Narayanan Chettiar through his maternal grandfather namely S.Narayanan Chettiar by registered gift deed, dated 29.0.1965 and he obtained another property as described in a registered family settlement deed, dated 13.02.1976, thereby the above said P.Narayanan Chettiar was having absolute possession and right over the above properties. One Ramalakshmi Ammal, who is the daughter of P.Narayanan Chettiar born through his second wife, died on 07.06.2006 and she has no right over the properties. While so, the second accused had created a bogus family settlement deed on 23.10.2017, as if the above



mentioned Ramalakshmi Ammal is alive and the same was duly registered before the Sub-Registrar, Melapalayam and Accused Nos.3 and 4 have attested the above document. The petitioners along with other accused committed the offence of cheating and forgery with intention to grab the properties of the defacto complainant by impersonating the dead person. Hence, the defacto complainant lodged a criminal complaint before the first respondent as against the petitioner and others in Crime No.7 of 2020 for the alleged offences under Sections 420, 465, 468 and 471 of I.P.C.

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

4. 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.

5. 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



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.

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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. 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 first respondent is directed to complete the investigation and file a final report before the concerned Magistrate, within a period of eight weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

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

+1 CC to M/s.I.SUTHAKARAN, Advocate (SR-11006[F] dated 10/03/2022)
Crl.O.P (MD) No.13166 of 2020
08.03.2022

MGJ(21.03.2022) 4P 4C