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Crl.O.P.No.5941 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

Crl.O.P.No.5941 of 2024

and

Crl.M.P.Nos.4318 & 7383 of 2024

1.P.Sengodan

2.A.S.Angammal

3.A.S.Prabhu

... Petitioners

Vs.

1.The State Rep.by
The Inspector of Police,
District Crime Branch,
Namakkal District.

2.A.S.Suganthi

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for the records pertaining to First Information Report vide Crime No.11 of 2023 dated 20.12.2023 on the file of the Inspector of Police, District Crime Branch, Coimbatore District and quash the same as illegal.

For Petitioners : Mr.P.Muthukrishnan
for Mr.S.B.Viswanathan

For R1 : Mr.S.Udayakumar
Government Advocate (Crl.Side)

For R2 : Mr.R.Srinivas, Senior Counsel
for M/s.J.Tamilselvi



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ORDER

This Criminal Original Petition is filed to quash the Crime No.11 of 2023 on the file of the District Crime Branch, Coimbatore.

2. The petitioners, who are accused 1, 2 and 3, had contended that no material available to investigate offences like 120 B, 465, 469, 468, 471, 420, 409 and 109 IPC. A pure civil dispute between the defacto complainant and the petitioners been given criminal colour suppressing the fact that the dispute between them is already the subject matter of arbitration proceedings initiated under Section 7 of Arbitration Act. Further, it is contended that dispute between the partners has already given quietus by way of Muchalikka dated 27.09.2015. Whereas, the defacto complainant has received a sum of Rs.13.90 Crores, so far agreed a sum of Rs.15 Crores. While so, the present complaint alleging forgery of signature for transfer of property and fabricating partnership firm resolution in the year 2020 came to be filed in the year 2023 with intention to extract money.



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3. The learned counsel appearing for the petitioners further submits that this criminal complaint is an attempt to make unlawful gain.

In the complaint, the complainant has intentionally concealed the family arrangement entered between the parties as early as 27.09.2015. Since this Court was *prima facie* satisfied with the contention of the petitioners granted stay of investigation in Crime No.11 of 2023 vide order dated 11.03.2024. The defacto complainant has filed application to vacate the stay narrating the fact that the family arrangement which took place in the year 2015 has no relevance to the complaint, since the allegations of forgery and fabrication of records is much after the family arrangement.

4. The learned senior counsel appearing for the 2nd respondent submits that though the contesting parties are related to each other, the act of forgery and fabrication of records are essentially a crime which need to be investigated. The family arrangement which took place 5 years prior to the commission of offence cannot be taken as a shield to dislodge the complaint, which discloses commission of cognizable offence.



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5. The learned Government Advocate (Crl.Side) appearing for the respondent police submits that based on the complaint which discloses forgery, fabrication and dishonest intention to cheat the defacto complainant by holding a firm deceptively with similar name as of the erstwhile partnership firm makes out a case for investigation of cognizable offence.

6. This Court, on perusing the complaint, finds that three specific allegations are made against these petitioners (i) the signature of the complainant forged in the documents while transferring the property of the partnership firm (ii) partnership firm resolution been fabricated as if the defacto complainant had consented for alienating the property (iii) a new partnership firm with phonetically and visually similar that of the SRI SPK REAL ESTATE-E been registered. The complaint for cancellation of the registration of the new firm been entertained by the Registrar of the firm and presently the subject matter of appeal. Since there is enough material to probe the complaint, this Court is of the view that the investigation of the case cannot be interfered in exercising power under Section 482 Cr.P.C.



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7. Hence this Criminal Original Petition to quash the FIR in Crime No.11 of 2023 on the file of the DCB, Coimbatore stands dismissed. Consequently, the connected Criminal Miscellaneous Petitions are also dismissed.

30.07.2024

Index : Yes/No

Neutral Citation : Yes/No
rpl

To

1.The Inspector of Police,
District Crime Branch,
Namakkal District.

2.The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN,J.

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