



Crl.O.P.No.5550 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2025

CORAM:

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

Crl.O.P.No.5550 of 2025

and

Crl.M.P.No.3595 of 2025

1.M.Mani
2.P.V.Neela
3.V.Ravi
4.P.Venkatachalam

..... Petitioners

Vs

1. State rep. by
Inspector of Police
Central Crime Branch-II
Chennai-CCB, Chennai District
In Crime No.206 Of 2024

2.M.Santhabella
3.S.Amulraj
4.G.Isravel

..... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records culminating in Crime No.206 of 2024 pending on the file of the 1st Respondent Police and quash the same.



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For Petitioners : Mr.B.Mohan
For R1 : Mr.R.Vinothraja
Government Advocate (Crl. Side)
For R2 to R4 : Mr.K.Livingstaon

ORDER

This Criminal Original Petition has been filed seeking to quash the FIR registered in Crime No.206 of 2024 on the file of the first respondent.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. Based on the complaint lodged by the respondents 2 to 4 herein, the first respondent registered an FIR in Crime No.206 of 2024 for the offences under Sections 420, 465, 467, 468, 471, 120B and 109 of IPC, alleging that the accused had altered the entries in the partition deed vide document No.1963 of 1934. Specifically, it is alleged that in the last page of the partition deed, the property mentioned in S.F.No.5/D was fraudulently altered to S.F.No.51/1. Pursuant to the said altered partition deed, subsequently a fraudulent transaction was made in favour of the petitioners. Hence, the complaint.



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4. There are totally five accused in which the petitioners have been arrayed as A2 to A5. The property, comprised in Survey No.51/1, T.S.No.92, Block No.56, situated at Thiruveethiamman Koil, Koyambedu, Chennai, to an extent of 40 cents, is owned by the petitioner. The said property was purchased by a registered sale deed dated 28.06.2022 vide document No.2909 of 2022 along with other properties through power of attorney viz., the first petitioner herein. The title of the subject property is derived as follows :

“a. The land was originally allotted to one Mr.Thangavel by way of family partition wherein 'Item-B' Schedule property was allotted. Thereafter, the legal heirs of Thangavel entered into a partition vide Document No.213 of 1950 dated 16.02.1950 wherein the subject land in S.F.No.51/1 is allotted to Ramachandran who is the father of the above said Karunakaran namely the vendor.

b. On 19.03.2014 the legal heirs of said Thnagavel had executed a release deed in favour of the said Karunakaran making the above siad Karunakaran as the absolute owner of the suit property.

c. Thereafter, the land in S.F.No.51/1, 51/2 & 52/2 was resurveyed in T.S.No.92 to the extent of 0.36.62.0 Hecres/90 cents. On subdivision, the S.F.No.92 was sub divided as follows :



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i. 92/1 – 0.33.88.0/83.68 cents

ii. 92/2 – 0.00.49.0/1.21 cents

iii. 92/3 – 0.02.24.5/5.54 cents

Total - 0.36.62.0/90 cents.

d. Moreso, the land records in Town Survey Register the S.F.No.92/1 in which the old S.F.No.51/1 the extent is shown as 0.33.88.0. It is also reflected that joint patta was issued in the name of Annammal, legal heirs of Natersan Pillai namely Munusamy, Sambandam and Gajendran, and legal heirs of Ramachandran namely Karunakaran, Devendran, Balasubramanian.

e. In such circumstances during the digitization of land register records the extent of land in T.S.No.92/1 was incorrectly mentioned as 0.3.88.0 in such circumstance I gave a letter to Tashildar on 01.06.2023 and based on the represented an order was passed in Na.Ka.No.Aa2/1250/2023 dated 10.10.2023. As per the order only after the corrections in the extends of the land is carried out by a necessary order the proceedings for issuance of patta can be initiated.

f. In such circumstances the co-owners of the remaining portion of the land namely the legal heirs of Annamal taking advantage of the clerical error in the extent of land in T.S.no.92/1 is now attempting to encroach an usurp the property illegally by disturbing the peaceful possession and enjoyment of the property.”



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5. The petitioners had filed a suit in O.S.No.5672 of 2023 on the file of the XXII Assistant City Civil Court, Chennai, for permanent injunction as against the respondents 2 to 4 herein. In the said suit, the respondents 2 to 4 also filed a written statement specifically stated that the document in respect of the property comprised in Survey No.51/1 is a bogus one. The last page of the partition deed has been altered as S.No.51/1 from S.F.No.5/D. Thereafter, they entered into a partition deed. However, the said suit was dismissed for default. Utilising the said circumstances, the second respondent obtained a direction under Section 156(3) of Cr.P.C. in Crl.M.P.No.23741 of 2024, dated 24.06.2024, pursuant to which an FIR was registered in Crime No.206 of 2024 for the offences under Sections 420, 465, 467, 468, 471, 120(B), 109 of IPC.

6. Insofar as the petitioners are concerned, they are bonafide purchasers and they have nothing to do with the partition deed, which was registered vide document No.1763 of 1934 and also alteration of the survey number as S.F.No.51/1. The Hon'ble Supreme Court of India, in the case of *Sheila Sebastin V.Jawahar Raj*, reported in *2018 3 SCC 275*, has held as follows :



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“26. The definition of “false document” is a part of the definition of “forgery”. Both must be read together, 'Forgery' and 'Fraud' are essentially matters of evidence which could be proved as a fact by direct evidence or by inferences drawn from proved facts. In the case in hand, there is no finding recorded by the trial Court that the respondents have made any false document or part of the document/record to execute mortgage deed under the guise of that 'false document'. Hence, neither respondent No.1 nor respondent No.2 can be held as makers of the forged documents. It is the imposter who can be said to have made the false document by committing forgery. In such an event the trial court as well as appellate court misguided themselves by convicting the accused. Therefore, the High Court has rightly acquitted the accused based on the settled legal position and we find no reason to interfere with the same.

*e) That the First Information Report is liable to be set aside in view of the law laid down by this Hon'ble Court in **Subbu Somu V. Inspector of Police** reported in **2021 SCC Online Mad 877** :*

“14. It is now a well settled position of law that even when a document is executed by a person claiming a property which is not his, that does not by itself satisfy the requirements of a false document as defined under



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Section 464 of IPC. If does not satisfy the requirements of Section 464 IPC, there is no forgery and if there is no forgery, automatically neither Section 467 nor Section 471, IPC will be attracted

.....”

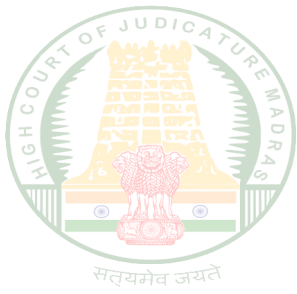
f. That the present case falls under the parameters laid down by the Hon'ble Apex Court in Neharika Infrastructure Pvt Ltd V. State of Maharastra and Ors reported in 2021 SCC Online SC 315.

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iii. It is only in cases where no cognizable offence or offence of any kind is disclosed in the first information report that the Court will not permit an investigation to go on ;

xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. IT would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in



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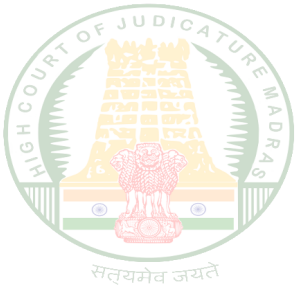
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the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure ;

xiv) However, at the same time, the Court, if it thinks fit, regard being had to the parameters of quashing and the self-restraint imposed by law, more particularly the parameters laid down by this Court in the cases of R.P.Kapur (supra) and Bhajan Lal (Supra) has the jurisdiction to quash the FIR/Complaint ;

xv) When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The Court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the Court has to permit the Investigating agency/police to investigate the allegations in the FIR;”

7. Therefore, FIR registered against the petitioner is nothing but a clear abuse of process of law and it cannot be sustained for further investigation.



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8. In view of the above, the FIR in Crime No.206 of 2024

on the file of the first respondent is hereby quashed insofar as the petitioners are concerned. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

09.04.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
Lpp

To

1.The Inspector of Police
Central Crime Branch-II
Chennai-CCB, Chennai District

2.The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN, J.



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