

Crl.OP.No.8201 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.04.2025

CORAM:

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

Crl.O.P.No.8201 of 2025

and

Crl.MP.No.5348 of 2025

1.Arunagiri
2. Saradha

... Petitioners

Vs.

1. State by
The Inspector of Police,
District Crime Branch – II,
Kancheepuram (Cr.No.7 of 2024)

2.P.R.Rajesh Kumar

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C to call for the records and quash the FIR registered in Cr.No.7 of 2024 dated 12.08.2024 on the file of the 1st respondent Police (The Inspector of Police) District Crime Branch, Kancheepuram District against the petitioners herein.



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For Petitioners : Mr.Abdul Mubeen
for M/s.D.Revathi Karthick
For Respondents : Mr.R.Vinoth Raja for R1
Government Advocate (Crl.Side)
: Mr.J.Lenin for R2

ORDER

This petition has been filed to quash the F.I.R. in Cr.No.7 of 2024 registered by the first respondent police for offences under Sections 120B, 465, 468, 471 and 420 of IPC, as against the petitioner.

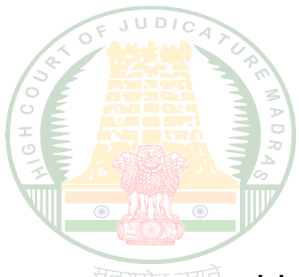
2. The complaint has been filed by one Rajesh Kumar that he claims to be a General Power of Attorney holder for 1. M.Kavi Arasu, 2. M.Jayakumar, 3, Vasanth Gangadharan, 4.M.Kasthuri and 5.S.Aishwarya. The said power agent acting on behalf of the principals had filed the complaint against the petitioners/3rd and 4th accused herein and the original owners of the property situated at Chettipatty Village, Sriperumpudur Taluk, Kancheepuram District comprised in New Survey No.308/12, Old Survey No.308/2A2(part) admeasuring an extent of vacant land 3 acres.



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3. It is alleged that the subject property originally belongs to the husband of the first accused one Abdul Khader. It is pertinent to state that originally the large extent of property admeasuring 5 acres 84 cents belongs to the said Abdul Khader. The said Abdul Khader sold a portion of three acres from and out of 5.84 acres to one K.Mukundan and his two sons as early as in the year 1982. The balance of two acres and 84 cents was sold to one Alamelu Ammal by two registered sale deeds. Thus the said Abdul Khader is alleged to have ceased ownership of the property. Despite the extinguishment of his title, the said Abdul Khader had settled the property in the name of his wife and thereafter the said Abdul Khader died. Subsequently, the first accused herein being his wife, on the strength of the settlement deed that was executed in her favour, had entered into a registered sale agreement with respect to a portion of the property to an extent of three acres to the petitioners herein. The said Bathrunissa had also executed a settlement deed in favour of her son who is the second accused herein and in turn sold the balance portion of the property to the fourth petitioner who is the wife of the third



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petitioner.
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4. It is further alleged that the conveyance transaction in favour of the second and third petitioners herein took place as early as in the year 2013. The accused 1 and 2 had obtained patta in their favour and further sought cancellation of patta issued in favour of K.Mukundan and others. The second respondent/defacto complainant had also initiated proceedings to cancel the sale deeds before the District Registrar in the year 2022 itself under Section 77A of the Registration Act.

5. The further allegation is that the petitioners herein did not allow the second respondent/defacto complainant to develop the disputed property and disturbed their peaceful possession. Hence, a complaint was preferred against the original owners and the petitioners herein who are the intending purchasers to the subject property. The complaint was taken on file by the first respondent and an FIR was registered against the original owners being accused 1 and 2 and the petitioners herein who are arrayed 3rd and 4th accused



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for the offences under Sections 120B, 465, 468, 471 and 420 of IPC.

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6. The learned Counsel appearing for the petitioner would submit that originally, a suit came to be filed in O.S.No.805 of 2012 against the second respondent/defacto complainant on the file of the learned XIV Assistant Judge, City Civil Court, Chennai and the same is pending till date. The suit was filed by the late Abdul Khader and the first accused against the Principal of the second respondent/defacto complainant seeking for the relief of declaration to declare that the sale deed executed allegedly in favour of the Principal of second respondent as null and void.

7. While so, exparte judgement and decree was passed in favour of the plaintiff and only subsequently the said Abdul Khader and his wife who is the first accused herein had cancelled the sale deed based on the said judgment and decree and further retained title to the subject property. The Judgment and decree was passed as early as on 03.10.2012 itself.



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8. After a long gap of four years, the said principals of the defacto complainant had filed an application to set aside the exparte judgement and decree dated 03.10.2012 and the same being allowed, the suit was dismissed for default due to non appearance of late Abdul Khader who died intestate.

9. The learned counsel for the petitioner further submits that the first accused after coming to know the fact, had filed application to set aside the order of dismissal and other interlocutory applications are also pending as on date. Whiles, the second respondent/defacto complainant has resorted to give criminal colour to the civil dispute. Aggrieved against the FIR, the petitioners have filed the present petition and prayed to quash the same.

10. The learned Government Advocate (Crl.Side) appearing for the respondent police and the learned counsel appearing for the second respondent reiterated the prosecution case and opposed to allow the petition.

11. Heard the learned Counsel appearing on either side and



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perused the materials placed on record.

12. It is seen from the First Information Report that there are specific allegations as against the petitioner to attract the offence, which has to be investigated in depth. Further the FIR is not an encyclopedia and it need not contain all facts and it cannot be quashed in its 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.

13. The Hon'ble Supreme Court of India passed in the judgment reported in **2019 (14) SCC 350** in the case of ***Sau. Kamal Shivaji Pokarnekhar vs. The State of Maharashtra & ors., (Crl.A.No.255 of 2019 dated 12.02.2019)*** held that the learned Magistrate while taking cognizance and summoning, is required to apply his judicial mind only with the view to taking cognizance of the offence whether a *prima facie* case has been made out for summoning



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the accused person. The learned Magistrate is not required to evaluate the merits of the materials or evidence in support of the complaint, because the Magistrate must not undertake the exercise to find out whether the materials would lead to conviction or not. Only in a case where the complaint does not disclose any offence or is frivolous, vexatious or oppressive, the complaint/FIR can be taken for consideration for quashment. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by Magistrate, it can be considered for quashment. Therefore, 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 to interfere. At the initial stage of issuance of process, it is no open to the Court to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Therefore, the criminal complaint cannot be quashed only on the ground that the allegations made therein appear to be of a civil



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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.

14. Further the Hon'ble Supreme Court of India issued directions in the judgment reported in **2021 SCC Online SC 315** in the case of ***M/s.Neeharika Infrastructure Pvt. Ltd., Vs. State of Maharashtra & ors.***, as follows :-

“23.

vi) *Criminal proceedings ought not to be scuttled at the initial stage;*

vii) *Quashing of a complaint/FIR should be an exception rather than an ordinary rule;*

.....

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*



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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 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;

.....

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;”

15.Though the civil suit is pending in O.S.No.805 of2012 on the file of the XIV Assistant Judge, City Civil Court, Chennai, it is nothing to do with the present FIR.



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16. In view of the above discussions, this Court is not inclined to quash the First Information Report. However, the first respondent is directed to complete the investigation in Crime No.7 of 2024 and file a final report within a period of three months from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed.

17. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

24.04.2025

Vv

To

1. The Inspector of Police,
District Crime Branch – II,
Kancheepuram
2. The Public Prosecutor,
Madras High Court,
Chennai.

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G.K.ILANTHIRAIYAN, J.

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