



Crl.O.P.No. 12375 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2025

CORAM:

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

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1. Manikandan
2. Saravanakumar
3. Bhuvaneshwari
4. Kamalahassan
5. Thirumoorthy @ Chinna Thirumoorthy
6. Kamalam @ Karpagam
7. Rajammal
8. Haripriyan

..... Petitioners

Vs

1. State rep by the Inspector of Police,
Thirumurugan Poondi Police Station,
Tiruppur City, Tiruppur District.
(Crime No.400 of 2024)

Govindasamy (Died)

2. G.Vasanthamery,
W/o. Late A.Govindasamy.

3. G.Rajkumar

..... Respondents



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PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the entire records pursuant to the case in crime No.400 of 2024 on the file of 1st respondent, and quash the same by allowing this Criminal Original Petition.

For Petitioners : Mr.K.Sudhakar

For R1 : Mr.A.Gopinath
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed seeking to quash the FIR registered in Crime No.400 of 2024 on the file of the first respondent.

2. The case of the prosecution is that one Govindasamy's grandfather, Thavasi Valaiyan, owned land comprised in S.F.Nos.425/2, 472, 473, 474, 475 admeasuring 6.35 acres situated at Rakipalaym Village. The said Thavasi Valaiyan had two wives. Through his first wife, he had four sons, viz., Karuppan, Musuvan, Chinna Karuppan and Maran. Through his second wife, he had Avinashi Valiayan, Valliyammal and Nachammal. Since women had no inheritance rights before 1989, Karuppan and Musuvan sold their 2/5 share to the other brothers through registered sale deeds. It is further alleged that the legal

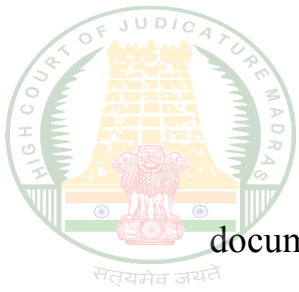


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heirs of Maran and Chinnakaruppan executed a partition deed with Avinashiappan and his wife Iyyammal, which was registered as Document No.1244/1989. After the death of the said Avinashiappan, his legal heirs, viz., Iyammal, Govindasamy, Poovathal, Saraswathi and Mankaiyathal, took possession and enjoyed the property. Though his sisters filed partition suits in O.S.Nos 144 of 2006 and 334 of 2010, both suits were dismissed.

3. It is further stated that the defacto complainant claims that Avinashiappan had two sons, viz, Thirumoorhty and Chinna Thirumoorthy. The said Thirumoorthy died on 22.01.2004 leaving behind Manikandan, Kamalam @ Rajammal, Bhuvaneshwari and Hamalahasan as legal heris. They applied for patta mutation, however, the RDO, by an order dated 04.09.2008, held that they had no right over the property. Notwithstanding the said order, they executed a sale agreement with one Ganesan without having proper title. Consequently, the defacto complainant filed a suit in O.S.NO.413 of 2010 for permanent injunction before District Munsif, Avinashi, which is still pending. Subsequently, the accused persons, viz., Manikandan and others filed a suit in O.S.No.26 of 2019 for partition allegedly relying on forged



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documents and excluding the defacto complainant. They obtained a collusive order through Lok Adalath and registered the same as Document No.4565 of 2019. Based on the Lok Adalath order, they entered into another sale agreement on 03.08.2021. Hence, the complaint.

4. The learned counsel appearing for the petitioners submitted that the matter has already been taken cognizance by the Civil Court. Therefore, the allegations made do not disclose a prima facie case so as to attract any criminal offence against the petitioner.

5. The learned Government Advocate (Crl.Side) appearing for the first respondent submitted that based on the complaint lodged by the third respondent, the first respondent registered an FIR in Crime No.406, 420, 468 & 471 of IPC, which is pending for investigation.

6. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl.Side) appearing for the first respondent. Perused the materials available on record.



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7. It is seen from the First Information Report that there are

specific allegations as against the petitioners 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.

8. 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 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



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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 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.



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9. 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 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;*

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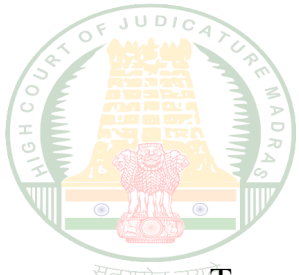
xv) *When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether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

10. 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.400 of 2024 and file a final report within a period of twelve weeks from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed.

11. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

24.04.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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To
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1. The Inspector of Police,
Thirumurugan Poondi Police Station,
Tiruppur City, Tiruppur District.

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



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G.K.ILANTHIRAIYAN, J.

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