



Crl.O.P.No. 9173 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2025

CORAM:

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

Crl.O.P.No.9173 of 2025 and
Crl.M.P.No.6079 of 2025

1.Kumar
2.Sivakumar

... Petitioners

Vs.

1.State by;
Inspector of Police,
Avadi City -CCB,
(Crime No.83 of 2024)
Avadi Police Commissionerate,
Avadi,
Chennai 600 054.

2.M.Sudakar Kesavan

..Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records and quash the FIR filed in Crime No.83 of 2024, on the file of the first respondent police.

For Petitioners : Mr.E.J.Ayyappan



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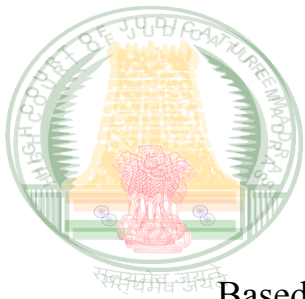
For R1 : Mr.R.Vinothraja,
Government Advocate (crl.side)

For R2 : Mr.K.G.Senthil Kumar

ORDER

This petition has been filed to quash the FIR in Crime No.83 of 2024 on the file of the first respondent, registered for the offences punishable under Sections 406, 465, 468, 467, 471 and 34 of IPC.

2. The case of the prosecution, as per FIR, is that 3.90 acres of immovable property situated in Noombal and Puliyambedu villages, Thiruvallur District, was allotted to one Sagadevan through a partition deed dated 21.07.1964. After the said Sagadevan's demise intestate, the property devolved equally among his four legal heirs, namely, the petitioners 1 and 2, the de-facto complainant's mother (Late) Vasanthi, and one Sakunthala. It is alleged that the petitioners 1 and 2, with the intent to deprive the said Vasanthi of her rightful 1/4th share (97.5 cents), fraudulently secured a patta for the entire extent of the land in their names, thereby attempting to grab her portion of the property.



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Based on this, the first respondent registered a case in Crime No.83 of 2024 for the offences punishable under Sections 406, 465, 468, 467, 471 and 34 of IPC.

3. The learned counsel for the petitioners submitted that the dispute is purely civil in nature. The petitioners have already filed a suit for partition in O.S. No. 588 of 2024 on the file of the II Additional District and Sessions Court, Poonamallee, which is currently pending. Therefore, it is contended that no criminal offence is made out as against the petitioners and the present complaint has been filed only to give a criminal colour to a civil dispute. Hence, he prays to quash the FIR.

4. The learned counsel for the second respondent submitted that the one Kumar and Sivakumar executed two powers of attorney in favour of M/S.ALA Constructions, vide Document Nos. 8432/2015 and 8433/2015 dated 28.05.2015, registered at the Sub-Registrar Office, Kundrathur, thereby covering a total extent of 31 cents in Item-2 of the scheduled property. These lands were subdivided into approved plots under CMDA Planning Permits No.19/2015 and 20/2015. The power was



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granted to M/S.ALA Constructions for developing and selling the property, thereby depriving the second respondent of his lawful rights.

Hence, he prays for dismissal of this petition.

5. Heard both sides and perused the materials placed on record.

6. On a perusal of the First Information Report, this Court finds that there are specific and serious allegations as against the petitioners which attract the ingredients of cognizable offences and warrant thorough investigation. The mere pendency of a civil suit does not, by itself, preclude the registration or investigation of a criminal case. It is well settled that an FIR is not expected to be an encyclopaedia of facts. Hence, this Court is not inclined to quash the FIR at this stage. The investigation machinery must be allowed to proceed in accordance with law to unearth the truth and bring the guilty to book.

7. The Hon'ble Supreme Court of India passed in the judgment reported in **2019 (14) SCC 350** in the case of **Sau. Kamal Shivaji**



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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 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



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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.

8. 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 :-

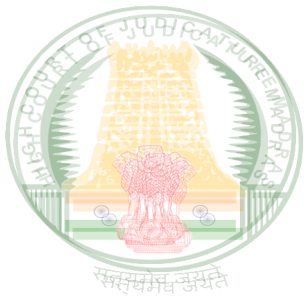
“23.

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 encyclopedia which must disclose all facts and details relating to the offence reported. Therefore, when the*



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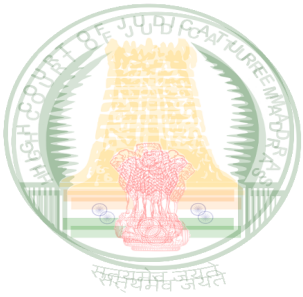


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investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the 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;

.....

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;”



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9. In view of the above discussions, this Court is not inclined to quash the First Information Report in Crime No.83 of 2024. The first respondent is directed to complete the investigation in Crime No.83 of 2024 and file the 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.

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

27.03.2025

Neutral citation : Yes/No
Speaking/non-speaking order
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To

1.The Inspector of Police,
Avadi City -CCB,

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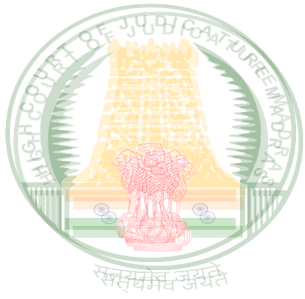
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Avadi Police Commissionerate,
Avadi,
Chennai 600 054.

2. The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN, J.

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