



WEB COPY



Crl.O.P.No.9373 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28.03.2025**

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.9373 of 2025

1.Ibrahim Batsha
2.Sameera

... Petitioners

Versus

1.The State rep.by Inspector of Police,
Mangalamedu Police Station,
Perambalur District. (Crime No.209 of 2018)

2. Mr. Mohamed Yousuf

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records of the first respondent in F.I.R. No.209 of 2018 dated 30.04.2018 and quash the same.

For Petitioners : Mr. S.N. Subramani

For Respondents : Mr. A. Gopinath, (for R1)
Government Advocate (Criminal Side)



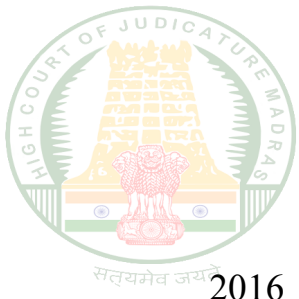
Crl.O.P.No.9373 of 2025

WEB COPY

ORDER

This Criminal Original Petition has been filed to quash the F.I.R. No.209 of 2018 dated 30.04.2018 registered by the first respondent police for offences under Sections 147, 148, 294(b), 341, 324, 506(i) and 506(ii) of the Indian Penal Code, (IPC) 1860, and Section 3 of the Tamil Nadu Public Property (prevention of damage and loss), Act, 1992, as against the petitioners.

2. The brief facts of the case is that there is a property dispute between the petitioners and the defacto complainant regarding the land in S.No.143/14, measuring 0.26.0 ares or 66 cents. The property originally belonged to Mumtaj Begum and her sisters, who held joint patta. They sold a portion about 4 $\frac{3}{4}$ cents to one Abubucker and transferred the remaining land about 1 $\frac{1}{2}$ cents to the defacto complainant through a Settlement Deed executed by his mother. The defacto complainant has been in possession since then. The petitioners appealed to the RDO to cancel the joint patta stands in the name of the defacto complainant, but it was rejected. Therefore, the petitioners filed a suit in O.S.No.68 of



Crl.O.P.No.9373 of 2025

WEB COPY

2016 in the District Munsif Court, Perambalur. On 26.03.2018, the petitioners allegedly entered the property, attacked the defacto complainant, and damaged his vehicles and items worth Rs.1 lakh.

3. The learned counsel for the petitioner submitted that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.209 of 2018, for the offences under Sections 147, 148, 294(b), 341, 324, 506(i) and 506(ii) of the Indian Penal Code, (IPC) 1860, and Section 3 of the Tamil Nadu Public Property (prevention of damage and loss), Act, 1992, as against the petitioners. Therefore, he prayed to quash the same.

4. The learned Government Advocate (Criminal side) appearing for the first respondent submitted that the investigation is almost completed and the respondent police have only to file a final report in this case.



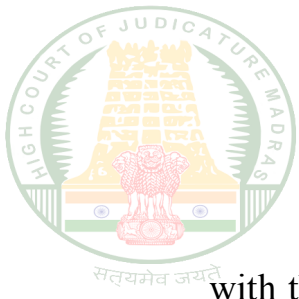
Crl.O.P.No.9373 of 2025

WEB COPY

5. Heard the learned counsel appearing on either side and perused the materials placed on record.

6. It is seen from the First Information Report that there are specific allegations as against these petitioners to attract the offences, 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.

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 Pokarnekar 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



Crl.O.P.No.9373 of 2025

WEB COPY

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 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



Crl.O.P.No.9373 of 2025

WEB COPY

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 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*



WEB COPY



Crl.O.P.No.9373 of 2025

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;”



Crl.O.P.No.9373 of 2025

WEB COPY

9. In view of the above discussions, this Court is not inclined to quash the First Information Report. However, considering the crime is of the year 2018, the first respondent is directed to complete the investigation in Crime No.209 of 2018 and file a final report within a period of four weeks from the date of receipt of copy of this order, before the jurisdiction Magistrate, if not already filed.

10. With the above observations and direction, this Criminal Original Petition stands dismissed.

28.03.2025

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

klt



Crl.O.P.No.9373 of 2025

WEB COPY

To

- 1.The Inspector of Police,
Mangalamedu Police Station,
Perambalur District. (Crime No.209 of 2018)
- 2.The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.O.P.No.9373 of 2025

G.K.ILANTHIRAIYAN, J.

klt

Crl.O.P.No.9373 of 2025

28.03.2025