



Crl.OP.Nos.10284 & 11137 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2025

CORAM

THE HONOURABLE Mr. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.Nos.10284 & 11137 of 2023

and

CRL.MP.Nos.6681, 7009 of 2023 & 1104 of 2025

Inba @ Inbamathivathanan

... Petitioner in Crl.OP.No.10284/2023

Iniyavan

... Petitioner in Crl.OP.No.11137/2023

- Vs. -

1. State by
Inspector of Police,
Central Crime Branch,
Avadi, Chennai.
(Crime No.25 of 2022)

2. Rajendran

... Respondents in both Crl.OPs.

Common Prayer: Criminal Original Petition filed under Section 482 Cr.P.C.

to call for the records in Crime No.25 of 2022 on the file of the first respondent police and quash the same as against the petitioners.

For Petitioner

in both cases : Mr.R.Thamarai Selvan

For Respondents : Mr.A.Gopinath

Govt. Advocate (Crl.Side) for R1

Mr.C.Iyyapparaj for R2



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COMMON ORDER

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These Criminal Original Petitions have been filed to quash the First Information Report in Crime No.25 of 2022 on the file of the first respondent Police.

2. The case of the prosecution is that the property bearing Plot Nos.264 and 265, situated at Sri Lakshmi Amman Nagar, Puthagaram Village, Saidapet Taluk, Chengalpet District, measuring an extent of 4800 sq.ft., is owned by one Rajan Chacko. The petitioners, along with other persons, impersonated the original owner of the property and executed a power of attorney in favor of one Arivunidhi. These persons sold the property on the strength of the power of attorney.

2.1. It is the further case of the prosecution that originally a complaint was lodged by the original owner's legal heir's power agent, one Ajayponmany and the same was registered in Crime No. 84 of 2021 for the offenses punishable under Sections 419, 420, 465, 467, 468, 471, and 34 of IPC. Thereafter, the fifth accused in Crime No. 84 of 2021 entered into an agreement of sale with one Kalyanasundaram by suppressing the aforesaid facts. Therefore, the agreement holder, Kalyanasundaram, lodged a complaint



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against Rajendran and others, and it was registered in Crime No. 24 of 2022 for the offenses under Sections 406 and 420 of IPC.

2.2. The said Rajendran came to know that he was also cheated by impersonating the original owner and executing a power of attorney. On the strength of the same, they executed a sale deed in favor of Rajendran. Thereafter, on the complaint lodged by Rajendran, the present First Information Report in Crime No. 25 of 2022 was registered against the petitioners and others for the offenses punishable under Sections 406, 420, and 34 of IPC.

3. The learned counsel for the petitioners would submit that all three First Information Reports have been registered for the very same cause of action. The original owners of the subject property came to understand about the fraudulent encumbrance certificate made in the subject property through their power of attorney and thereafter lodged a complaint in Crime No. 84 of 2021. He would further submit that the petitioners are innocent persons and have not committed any offense as alleged by the prosecution. Without any basis, the first respondent police registered a case in Crime No. 25 of 2022 for



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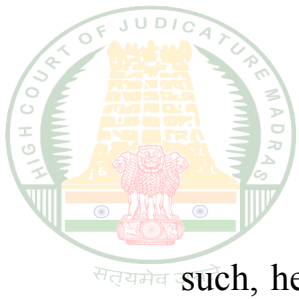
the offenses under Sections 406, 420, and 34 of IPC against the petitioners.

Hence, he prayed to quash the same.

4. The learned Government Advocate (Crl.Side) appearing for the first respondent would submit that the investigation is almost completed and only the final report is yet to be filed by the first respondent.

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

6. On a perusal of the records, it reveals that one Arivunidhi, in collusion with the petitioners, created a fraudulent power of attorney by impersonating the original owner of the property and executed a sale deed in favor of Rajendran for a sale consideration of Rs. 1,45,00,000/-. However, without disclosing this, Rajendran entered into an agreement with one Kalyanasundaram. Therefore, Kalyanasundaram lodged another complaint, which was registered in Crime No. 24 of 2022. After the registration of the First Information Report, Rajendran came to know about the fraudulent power of attorney created by impersonating the original owner of the property. As



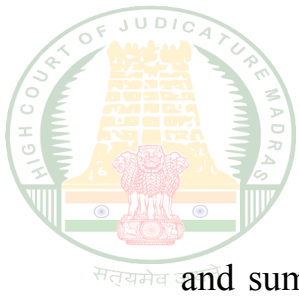
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such, he lodged the present complaint, which was registered in Crime No. 25 of 2022. Therefore, all three First Information Reports have been registered on different sets of causes of action. However, now all the First Information Reports are pending before the first respondent for investigation. In fact, the petitioners were detained under the Goondas Act along with the other accused.

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 the 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 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



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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 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



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the offence alleged against the accused are *prima facie* made out in the complaint, the criminal proceeding shall not be interdicted.

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 :-

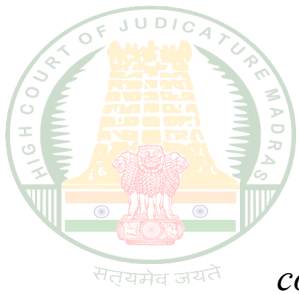
“23.

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*



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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;”

10. In view of the above discussions, this Court is not inclined to quash the First Information Report. However, first respondent is directed to complete the investigation in Crime Nos.84 of 2021, 24 and 25 of 2022 and file a separate final reports within a period of three(3) months from the date of receipt of a copy of this order, before the jurisdictional Magistrate, if not already filed. The Deputy Commissioner of Police, CCB, Avadi, is directed to monitor the investigation done by the first respondent.

11. Accordingly, these Criminal Original Petitions are dismissed.



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Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

kmi

1. The Inspector of Police,
Central Crime Branch,
Avadi, Chennai.
2. The Public Prosecutor,
High Court of Madras,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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