



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-03-2025

CORAM

THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL OP NO. 15554 of 2024

AND

CRL MP NO. 9505 OF 2024

1.M.P.Nagarajan
S/o.Perumal, Thennaimara Thottam, Perumal
Malai, Sooriyampalayam, Erode District

2.Sakthivel

Petitioner(s)

Vs

1.The Inspector Of Police
Komarapalayam Police Station, Komarapalayam
Post and Taluk, Namakkal District

2.Golusam Beevi

Respondent(s)

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.PC,
to call for the records and quash the FIR in Crime no.137 of 2023 on the file
of the first respondent.

For Petitioner(s): Mr.Shangar Murali

For Respondent(s): Mr.A.Gopinath, GA(Crl. Side) for R1
Ms.D.Sathya, for R2



ORDER

WEB COPY

This Criminal Original Petition is filed, seeking to call for the records pertaining to FIR in Crime no.137 of 2023, pending on the file of the first respondent and quash the same.

2.The first respondent herein registered an FIR in Crime No.137 of 2023 for the offence under Section 420 of IPC against the petitioners, alleging that the first accused is the Power of Attorney to deal with the property comprised in S.F No.299/2 ad-measuring to an extent of Acre 4.51 cents and the property comprised in S.F.No.299/5 admeasuring to an extent of Acre 0.61 cents. The said property originally belonged to one Aththiyannan and 16 others and thereafter, a lay out converted into house part, in which the second respondent had purchased two plot nos.125 & 126 admeasuring to an extent of 800 sq.ft each, out of the total extent of the property by a registered sale deed on 01.03.2007 vide document no.878 of 2007. Thereafter, the second respondent came to know that the first accused had sold out the very same plots in favour of one Vijayakumar and one Mrs.D.Saroja by a registered sale deed dated 28.09.2006 vide document nos.3679 & 3680 of 2006 respectively. Hence, the complaint.



WEB COPY

3.The second accused is one of the Attesters to the Sale Deed executed in favour of the second respondent. Therefore, there are specific allegations as against both the petitioners which would attract the offence under Section 420 of IPC. In fact, the first petitioner approached this Court seeking for Anticipatory Bail in CrI.OP No.8714 of 2023. This Court has granted Anticipatory Bail on condition that the first petitioner shall deposit a sum of Rs.10 lakhs to the credit of Crime no.137 of 2023. The first petitioner approached the Hon'ble Supreme Court in SLP No.5492 of 2024 and the same was dismissed by order dated 24.04.2024, with a liberty to approach this Court to relax the condition in terms whereof they are required to deposit/disburse certain amounts.

4.It is seen from the First Information Report that there are specific allegations as against the petitioner which would attract the offence, which has to be investigated in depth. Further the FIR is not an encyclopedia and it does not need to contain all the facts and it cannot be quashed at the threshold. This Court finds that the FIR discloses *prima facie* commission of cognizable offence and as such this Court cannot interfere with the



WEB COPY

investigation. The investigating machinery has to step in to investigate, probe and unearth the crime in accordance with the procedure prescribed in the Code.

5.The Hon'ble Supreme Court of India, 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**) has held that the learned Magistrate while taking cognizance and summoning, is required to apply his judicial mind only with a view of taking cognizance of the offence, as to 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 the Magistrate, it can be considered for quashment. Therefore, it is not necessary that a meticulous analysis of



WEB COPY

the case should be done before the trial to find out as to whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and on 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 with the same. 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 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.

6. 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*



WEB COPY

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;

.....

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



WEB COPY

to permit the investigating agency/police to investigate the allegations in the FIR;”

7. In view of the above discussion and following the above cited decision of the Hon'ble Supreme Court, this Court is not inclined to quash the First Information Report.

8. Accordingly, this Criminal Original Petition is dismissed. The first respondent is directed to complete the investigation in Crime No.137 of 2023 and file a final report within a period of twelve(12) weeks from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed. Consequently, connected miscellaneous petitions are closed.

19.03.2025

dn

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

To

7/9

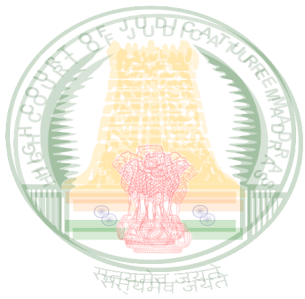


WEB COPY

1. The Inspector Of Police,
Komarapalayam Police Station, Komarapalayam Post
and Taluk, Namakkal District

2. The Public Prosecutor,
High Court, Madras.

G.K. ILANTHIRAIYAN.J.,
dn



WEB COPY



CRL OP NO.15554 OF 2024

19.03.2025