

Crl.OP.No.19233 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 11.03.2025

Pronounced on : 28.03.2025

CORAM:

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

Crl.O.P.No.19233 of 2023

and

Crl.MP.No.12932 of 2023

P.Praveen Kumar

... Petitioner

Vs.

1. The State Represented by
The Assistant Commissioner of Police,
Anti Document Forgery Wing,
Central Crime Branch-I,Vepery,
Chennai-600 007.

2. P.Prem Kumar

... Respondents.

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the FIR registered against the petitioner in Cr.No.184 of 2021 on the file of the first respondent.



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For Petitioner : Mr.P.Praveen Kumar
(Party-in-Person)

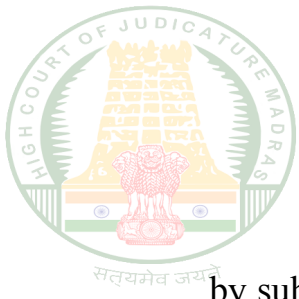
For Respondents : Mr.A.Gopinath
Government Advocate (CrI.Side)
for R1
: Mr.R.Vivekanandan for R2

ORDER

This petition has been filed to quash the F.I.R. in Cr.No.184 of 2021 on the file of the first respondent police.

2. On the complaint lodged by the second respondent, the first respondent police has registered an FIR in Cr.No.184 of 2021 for the offences punishable under Sections 420, 465, 467, 468, 471 r/w 34 of IPC as against the petitioner and his father.

3. The petitioner/A2 and the second respondent are brothers and the first accused/A1 is their father. Both the accused with an intention to cheat the second respondent and to grab the entire property of his mother, obtained legal heirship certificate fraudulently

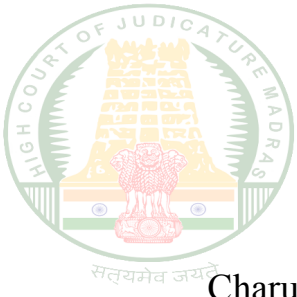


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by submitting falsified documents by including one Boovan Raj also as one of his legal heirs of their deceased mother. The accused had obtained birth certificate of the said Boovan Raj by stating that his father J.Perumal and his mother Baby. On 08.01.2020, on the complaint lodged by the second respondent, it was cancelled on the ground that the said Boovan Raj was born through the second respondent's mother's second husband one Ravi Raj and he was also issued birth certificate on 20.03.2019 by registering his birth as early as on 16.06.2013. On the strength of the birth certificate, the petitioner along with his father had obtained legal heir ship certificate including the said Boovan Raj as one of the legalheirs of Baby Perumal.

4. The petitioner appeared party-in- person and submits that his parents had established an Educational Trust in the name and style of " Baby Kings Educational and Charitable Trust" and also started a school namely " King's Matriculation High School" since 1995. His elder brother/the second respondent/complainant had got married one

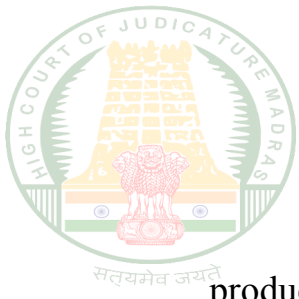


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Charulatha and settled in London since 2010. While being so, their father J.Perumal died on 21.07.2018, the second respondent along with his wife and father-in-law colluded together and lodged several complaints with false allegations as against the petitioner in order to grab the entire properties of his family. Initially, after demise of their father, legal heir ship certificate was issued including the name of one Boovan Raj. Subsequently, he came to understand that the said Boovan Raj was not born through his father Perumal. His mother got married the second husband one Ravi Raj and gave birth to the said Boovan Raj on 16.06.2013. Therefore, the said birth certificate was cancelled and subsequently, the legal heirship certificate issued by the Revenue authorities including the said Boovan Raj as one of the legal heirs was cancelled. Therefore, no offence is made out as against the petitioner.

5. The learned counsel appearing for the second respondent submits that in order to grab the entire property of his mother, the second accused had fraudulently obtained legal heirship certificate by

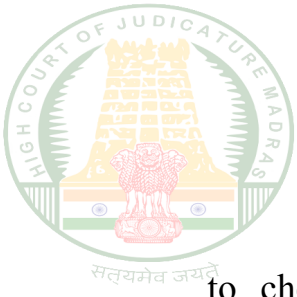


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producing the false birth certificate as if the said Boovan Raj was born to his mother through Perumal and obtained legal heirship certificate. After obtaining legal heirship certificate, the first accused had fabricated the Will as if his mother has executed the said Will and bequeathed the entire property in favour of the said Boovan Raj. The said Boovan Raj is a mentally retarded person and to take all the property the said Will was executed in favour of the Boovan Raj. Now, the said Will is declared as fraudulent and pursuant to the said Will no transaction can be permitted as per the order passed by the Deputy Inspector General of Registration, on the appeal filed by the second respondent herein as against the order passed by the District Registrar.

6. A perusal of the order passed by the District Registrar reveals that the Will executed by the petitioner's mother is genuine one. Aggrieved by the same, the second respondent has filed an appeal and now it was allowed and declared as fraudulent one and no further transaction can be done through the Will. Therefore, in-order



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to cheat the second respondent, the petitioner had fraudulently obtained birth certificate for Boovan Raj as if he was born through Perumal to his mother and obtained legal heirship certificate. As per the legal heirship certificate, he also fabricated the Will and bequeathed all the property in favour of the said Boovan Raj. Therefore, all the offences are clearly attracted as against the petitioner.

7. The learned Government Advocate (Crl.Side) appearing for the respondent police reiterated the prosecution case and submits that the said Boovan Raj was not born through his father Perumal. The petitioner's mother got married the second husband one Ravi Raj and gave birth to the said Boovan Raj on 16.06.2013. Therefore, the said birth certificate was cancelled and subsequently, the legal heirship certificate issued by the Revenue authorities including the said Boovan Raj as one of the legal heirs was also cancelled.

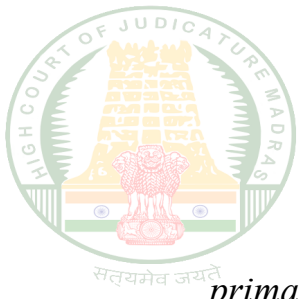


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8. It is seen from the First Information Report that there are specific allegations as against the petitioner to attract the offence, which has to be investigated in depth. Further the FIR is not an encyclopedia and it need not contain all facts and 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. The first accused is the father of the second accused and second respondent. Now, the first accused died.

9. 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)*** 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



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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 not open to the Court to stifle the proceedings by entering into the merits of the contentions made on behalf of the



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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.

10. 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*



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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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11. In view of the above discussions, this Court is not inclined to quash the First Information Report. It is also reported that the first accused died and the charges against him are abated and the first respondent is directed to proceed against the petitioner and complete the investigation in Cr.No.184 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.

12. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

28.03.2025

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

To

11/13



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1. The The Assistant Commissioner of Police,
Anti Document Forgery Wing,
Central Crime Branch-I,Vepery,
Chennai-600 007.
2. The Public Prosecutor,
Madras High Court,
Chennai.

G.K.ILANTHIRAIYAN, J.



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Vv

**Pre-delivery Order
made in
Crl.O.P.No.19233 of 2023**

28.03.2025