



Crl.O.P.No.21403 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2025

CORAM:

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

Crl.O.P.No.21403 of 2023

1.Muthusamy

2.M.Savithri

... Petitioners

Vs.

1.The State Rep by its,
The Inspector of Police,
District Crime Branch,
Coimbatore,
Crime No.19 of 2023.

2.The Sub Registrar,
Ganapathi,
Ganapathi Sub Registrar Office,
Ganapathi,
Coimbatore.

3.The Inspector General of Registration,
Santhome High Road,
Chennai.

4.The District Registrar (Administration),
Coimbatore,
Coimbatore District.

5.Saravanamoorthy

... Respondents



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PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in Crime No.19 of 2023, on the file of the 1st respondent police and quash the same.

For Petitioners : Mr.K.Myilsamy

For R1 to R4 : Mr.K.M.D.Muhilan
Government Advocate (Crl.side)

ORDER

This petition has been filed to call for the records in Crime No.19 of 2023, on the file of the 1st respondent police, registered for the offences under Sections 467, 468, 471, 420 of IPC and Section 82 (c) and 83 of the Registration Act, 1908 and quash the same.

2.The case of the prosecution is that FIR has been registered on the complaint lodged by the fifth respondent alleging that the property comprised in Survey Nos.294 and 295, to an extent of 4.59 acres, situated at Vellanaipatti Village, Coimbatore District belongs to the fifth respondent. This property was settled in favour of one Muthusamy by fabrication of documents and registered vide document No.5533/1984. The said Muthusamy had settled the subject property in favour of his wife Mrs.Savithri and registered the same, vide document No.2074/2020. Therefore, the fifth respondent had lodged a complaint before the District Registrar under Section 77 A of the Registration Act. After due enquiry, the District Registrar found that the sale deed was

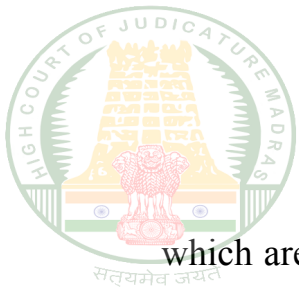


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executed using fabricated documents and therefore, the documents were declared as fraudulent one. Further, the District Registrar directed the Registration Authorities, as per Sections 82 & 83 of the Registration Act, to take appropriate action as against the persons, who fabricated the documents. Accordingly, the Sub Registrar lodged a complaint and on the basis of the same, the first respondent registered the FIR in Crime No. 19 of 2023.

3.The learned counsel for the petitioners would submit that now the provisions under Section 77 A of the Registration Act has been declared as unconstitutional by the Division Bench of this Court. Therefore, the order passed under Section 77 A and the directions issued by the District Registrar cannot be sustained. In pursuance to the said directions, FIR has been registered and as such, it cannot be sustained and it has to be quashed. He further submitted that the defacto complainant and his family members partitioned the property, which belongs to the petitioners. That apart, already various civil suits are pending on the very same property. Therefore, no offence is made out against the petitioners and hence, the FIR is liable to be quashed.

4.The learned counsel for the fifth respondent submitted that though the provisions of Section 77 A of the Registration Act has been declared as unconstitutional, the District Registrar can very well declare the documents,



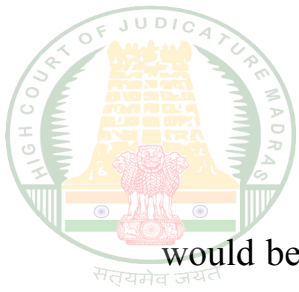
which are registered in favour of the petitioner and his wife as a fraudulent one under Sections 82 & 83 of the Registration Act and the District Registrar can very well issue directions to the Sub Registrar to lodge a complaint for criminal prosecution.

4.1.He further submitted that the Hon'ble Supreme Court, in a similar circumstances in *Navin Kumar Rai Vs. Surendra Singh and Others* reported in *2024 SCC Online SC 145*, has held that the declaration of the provisions under Section 77 A of the Registration Act as unconstitutional have no bearing on the merits of the case. The circular primarily envisaged action for cancellation of the document by the authorities itself, whereas the power to set in motion the criminal machinery is totally independent and distinct from the cancellation of registration of the document. Further, the registration authority had lodged a complaint, who is competent to lodge the complaint. In any event, such a power is the result of an action only in reference to and in connection with the Act and not the general provisions of IPC in relation to other penal provisions, for which, the FIR actually stood registered. Therefore, the District Registrar has got powers under Sections 82 & 83 of the Act to declare the documents as fraudulent one and can very much direct the authorities to initiate prosecution as against the persons, who committed illegality.



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5. In this context, it is relevant to rely upon the judgment of 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 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 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 :-

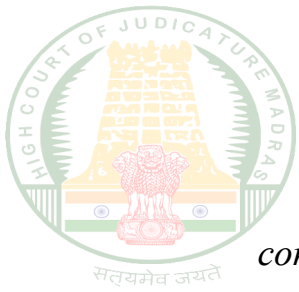
“23.

vi) *Criminal proceedings ought not to be scuttled at the initial stage;*

vii) *Quashing of a complaint/FIR should be an 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*



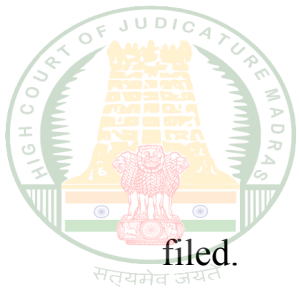
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conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the 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; ”

7.In view of the above submissions, this Court finds no ground to interfere and this Court is not inclined to quash the First Information Report. However, the first respondent is directed to complete the investigation in Crime No.19 of 2023 and file a final report within a period of 12 weeks from the date of receipt of copy of this order, before the jurisdiction Magistrate, if not already



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filed.

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8.Accordingly, this Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petition, if any, is closed.

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Internet: Yes

Index: Yes/No

Speaking/Non speaking order

To

1.The State Rep by its,
The Inspector of Police,
District Crime Branch,
Coimbatore,
Crime No.19 of 2023.

2.The Sub Registrar,
Ganapathi,



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3.The Inspector General of Registration,
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4.The District Registrar (Administration),
Coimbatore,
Coimbatore District.

5.The Public Prosecutor,
High Court, Madras.



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