



CRL.O.P.No.3826 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2025

CORAM:

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

Crl.O.P.No.3826 of 2023

Crl.M.P.No.2408 of 2023

1. S.Sakthivel

2. Baskar @ Pragalanadane

... Petitioners

Vs.

1. State Rep. by its  
The Inspector of Police,  
Tank Factory Police Station,  
Avadi, Thiruvallur District.  
(Crime No.552 of 2022)

2. Johnson Thomas

... Respondents

**PRAYER:** Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records relating to FIR in Crime No.552 of 2022 on the file of the Inspector of Police, Tank Factory Police Station, Avadi, Thiruvallur District and quash the same.

For Petitioners : Mr.S.Sarath Chandran

For Respondents

For R1 : Mr. R.Vinothraja  
Government Advocate (Crl. Side)



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## **ORDER**

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This petition has been filed to quash the F.I.R. in Crime No.552 of 2022 registered by the first respondent police for offences punishable under Sections 447, 506(1) of IPC, and Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage & Loss) Act, as against the petitioners.

2. On the complaint lodged by the second respondent, the first respondent registered the FIR in Crime No.552 of 2022 for offences punishable under Sections 447, 506(1) of IPC, and Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage & Loss) Act, alleging that on 27.09.2022, the petitioners and other accused persons trespassed into the defacto complainant's property and completely damaged part of the house and also the compound wall put up by the second respondent by using JCB, thereby caused damage to the tune of Rs.10 lakhs. Hence the complaint.

3. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. The second petitioner is the power holder of the original owners and in order to develop the property, the petitioners removed the rubbish and old compound wall. Without any base, the third



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respondent police registered a case in Crime No.552 of 2022 for the offences under Sections 447, 506(1) of IPC, and Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage & Loss) Act, as against the petitioners. Hence he prayed to quash the same.

4. On instruction, the learned Government Advocate (Crl. Side) appearing for the first respondent submitted that the second respondent is in possession and enjoyment of the subject property. The second respondent also filed suit in O.S.No.259 of 2022 for injunction before the District Munsif Court, Ambattur and the same is pending. The specific case of the second respondent is that the petitioners trespassed into his property and completely damaged the construction and caused damage to the tune of Rs. 10 lakhs. Further the investigation is almost completed and the first respondent police have only to file final report.

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

6. On perusal of the records, it is revealed that A.J.Paul and A.J.Nrimala are the owners of the property comprised in old survey No.286/1



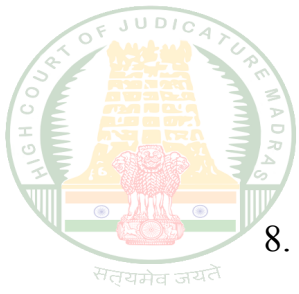
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and new survey No.286/58B6 and 286/58B7 to an extent of 0.90 cents and 0.88

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cents situated at No.5, Morai Village, Avadi Taluk, Thiruvallur District. They had acquired the property by way of release deed dated 18.07.2012. In order to maintain the said property, they appointed the second petitioner as Power of Attorney. In fact, they also filed suit for permanent injunction in O.S.No.251 of 2022 on the file of the District Munsif Court, Ambattur and the same was decreed by the judgment dated 02.06.2023. Though the petitioners obtained civil Court decree, it is an exparte order. Further, the suit filed by the second respondent is still pending.

7. Further, 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.



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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 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



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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.

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 :-

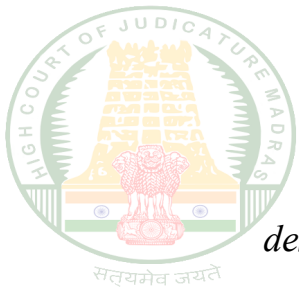
“23. ....

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*



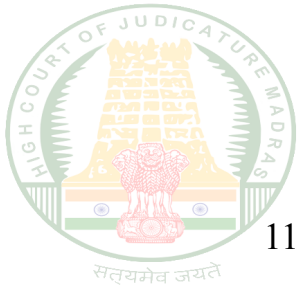
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*deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate 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; .....”*

10. 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 2022, the first respondent is directed to complete the investigation in Crime No.552 of 2022 and file a final report within a period of eight weeks from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed.



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11. Accordingly, this Criminal Original Petition stands dismissed.

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

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To

1. The Inspector of Police,  
Tank Factory Police Station,  
Avadi, Thiruvallur District.

2. The Public Prosecutor,  
High Court, Madras.



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**G.K.ILANTHIRAIYAN, J.**

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