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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-04-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

**CRL OP No. 10835 of 2023
and Crl.M.P.No.6847 of 2023**

1. Sukumar @ Sukumaran
S/o. Y.Boominathan, 29, Thangal Ulvaai Street,
Virugambakkam, Chennai.
2. S.M.S.Selva Ganesan
S/o. Late. S.M.Singaram, No.588, West 4th
Street, Near Ulaga Tamizh Sangam, K.K.Nagar,
Madurai - 625 020.

..Petitioner(s)

Vs

1. The State Rep.Through
Station House Officer, Muthialpet Police
Station, Flower Bazar District, Chennai City.
Cr.No.63/2023.
2. Balavenkatrama Chetty Kalyana Mandiram
(private Trust)
Rep.By Its Trustee Mr.B.R.Balasubrayan @
Balu, S/o. B.V.Renganathan, No.18/1,
Barrack Street, Seven Wells, Chennai - 600
001.

..Respondent(s)

Prayer: This petition is filed under Section 482 of Cr.P.C to call for the records pertaining to the FIR in Crime No.63 of 2023 on the file of the 1st Respondent Police and to quash the same in so far as the petitioners / A2 and A4 are concerned and to pass such other orders as this Honble Court may deem fit and proper in the circumstance of the case and thus render justice.

For Petitioner(s):

M/s.Rm.Arun Swaminathan
M. Marudhachalam



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For Respondent-1: Mr.A. Gopinath, Government Advocate

For Respondent -2 :Mr. Mohamed Abdul Azeez Counsel

ORDER

This petition has been filed to quash the F.I.R. in Crime No.63 of 2023 on the file of the 1st Respondent Police and to quash the same in so far as the petitioners / A2 and A4 are concerned

2.The case of the prosecution is that the second respondent is a trustee of the Balavenkataram Chetty Kalyana Mandiram which is a private Trust and the subject property belongs to them and the petitioners and three others have demolished the subject property on 20.11.2022. Hence the second respondent lodged a complaint. On receipt of the said complaint the respondent registered the F.I.R in Crime No.63 of 2023 for the offence punishable under section 447,448,427,417,456, 120B and 109 of IPC.

3. The learned counsel for the petitioner submits that the subject property originally belongs to one S.P.C.R.Subramanian Chettiyar and he sold the same to the grandfather of the second petitioner namely S.M.S.Chinnaya Chetttiyar



through the valid Registered sale deed dated 31.07.1931 bearing Registration No.1454/1931 on the file of the Registrar of Madras, Chengalpet. Till date the revenue records stands in the name of the great grand father of the second petitioner. All of sudden the second respondent came into the picture and transferred patta in their name and lodged the compliant. The grounds raised by the petitioner have mixed questions of law and facts and it could not be decided in this petition filed under Section 482 of Cr.P.C. However, prima facie materials are available to register the F.I.R for the offence punishable under section 447,448,427,417,456, 120B and 109 of IPC.

4.The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Without any base, the third respondent police registered a case in Crime No.63 of 2023 for the offences under Sections 447,448,427,417,456, 120B and 109 of IPC.of IPC, as against the petitioner. Hence he prayed to quash the same.

5. The learned Government Advocate would submit that the investigation is almost completed and the respondent police have only to file final report.



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

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7. 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 its 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 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. 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;*

.....

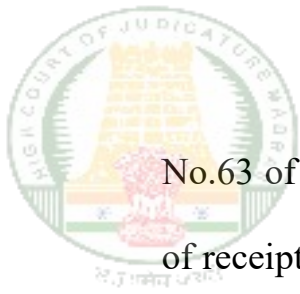


xii) The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not 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 2023, the first respondent is directed to complete the investigation in Crime



No.63 of 2023 and file a final report within a period of .3 months from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed.

11. Accordingly, this Criminal Original Petition stands dismissed.
Consequently, connected miscellaneous petitions is closed.

16-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

SMN

To.

1. The Station House Officer, Muthialpet Police Station, Flower Bazar District, Chennai City.
2. The Public Prosecutor, High Court Madras



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CRL OP No. 10835 of 2



G.K.ILANTHIRAIYAN, J.

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