

Arjunan vs State Rep.by

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Court : Chennai

Decided On : Feb-25-2025

Judge : Honourable Mr Justice G.K. Ilanthiraiyan

Appeal No. : CRL OP/1354/2025

Appellant : Arjunan

Respondent : State Rep.by

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN and
Crl.M.P.No.756 of 2025 Arjunan ... Petitioner Vs.

1. The State Rep. by The Inspector of Police, Otteri Police Station,
Chennai. (Crime No.212/2024)

2. Sundaram ... Respondents

PRAYER: The Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in Crime No.212 of 2024 on the file of the first respondent and quash the same. For Petitioner : Mr.K.Thenrajan For 1st Respondent : Mr.A.Gopinath Government Advocate (Crl.Side) For 2nd Respondent : Mr.P.G.Thiyagu -----

ORDER

This petition has been filed to quash the F.I.R. in Crime No.212 of 2024 registered by the first respondent police for offences under Sections 406, 420 and 506(i) of IPC, as against the petitioner.

2. The FIR was registered in Cr.No.212/2024 based on the

complaint given by the second respondent herein, since the second respondent has filed a petition under Section 156(3) of Cr.P.C, based on the direction from the learned Judicial Magistrate-II, Chengalpattu in Crl.MP.No.8626/2023 dated 13.02.2024. It is alleged in the complaint that the property situated at Unamancheri Village in Survey No.30/4 to an extent of 7 cents and the property in Survey No.258/5, 7, 8, 10 to an extent of 78 cents at Unamancheri Village belonged to the family of the second respondent and the petitioner alleged to create forged document, usurped the said property and the same was registered in his favour.

3. 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 first

respondent police registered a case in Crime No.212 of 2024 for the offences under Sections 406, 420 and 506(i) of IPC, as against the petitioner. Hence he prayed to quash the same. The learned counsel for the petitioner would submit that the grounds raised by the petitioner can be considered only after investigation since the specific allegations as

against the petitioner is that he has registered the property in his name by a forged document in the year 1970.

4. The learned Government Advocate (Crl.Side) would submit that the investigation is almost completed and the 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. 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.

7. 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.

8. 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;

9. In view of the above discussions, this Court is not inclined

to quash the First Information Report. However, , the first respondent is directed to complete the investigation in Crime No.212 of 2024 and file a final report within a period of three months from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed.

10. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed. 25.02.2025 Vv To

1. The Inspector of Police, Otteri Police Station, Chennai.

2. The Public Prosecutor, High Court of Madras, Chennai.

G.K.ILANTHIRAIYAN, J.

Vv and Crl.M.P.No.756 of 2025 25.02.2025

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