

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2024
(Arising out of SLP (Crl.) No.5805/2023)

AROCKIASAMY

Appellant(s)

VERSUS

THE STATE OF TAMIL NADU & ANR.

Respondent(s)

WITH

CRIMINAL APPEAL NO. OF 2024
(Arising out of SLP (Crl.) No.5806/2023)

CRIMINAL APPEAL NO. OF 2024
(Arising out of SLP (Crl.) No.6624/2023)

CRIMINAL APPEAL NO. OF 2024
(Arising out of SLP (Crl.) No.6625/2023)

O R D E R

Hrishikesh Roy, J.

Leave granted.

2. Heard Dr. P. V. Saravanaraja, learned counsel appearing for the appellant(s). Also heard Mr. M.P. Parthiban and Mr. Puneet Singh Bindra, learned counsel appearing for the respondents-accused. The state is represented by Mr. V. Krishnamurthy, learned Additional Advocate General.

3. The counsel for the appellant(s) submits that the High Court incorrectly noted that the civil litigation between the appellant(s) and the respondents had not attained finality. In order to show the error in the High Court's finding, the counsel refers to the judgment dated 09.04.2021 in the additional

documents, under which, the learned Subordinate Judge, Satyamangalam had dismissed the OS No.21 of 2012 filed by M.M. Rangasamy. On the same date i.e., 09.04.2021, the same Court had allowed the O.S. No.154 of 2017 filed by A. Arokiasamy and Baby Arokiasamy.

4. With the above, the counsel for the appellant(s) argues that the High Court should not have allowed the petition filed under Section 482 of the CrPC, to quash the criminal proceedings against respondents for *inter alia* filing forged documents in Court.

5. On the above, learned counsel for the State would support the SLP filed by the appellant(s) and submit that since forgery was alleged, the High Court should not have quashed the criminal proceeding.

6. The learned counsel for the respondents on the other hand would submit that no doubt the concerned civil suits were disposed of on 09.04.2021 by the learned Subordinate Judge, Satyamangalam but the aggrieved party then preferred appeal and those are pending.

7. The above would indicate that the High Court proceeded on the wrong assumption that the civil litigation between the parties had not attained finality. That apart, in our considered opinion, the High Court has erred in quashing the proceedings by holding that there can be no FIR/private complaint for forgery of a document filed before Civil Court until the finality of the litigation. The High Court ignored the ratio of the Constitution Bench in *Iqbal Singh Marwah & Another v. Meenakshi Marwah & Another* reported in

2005 (4) SCC 370, wherein it has been held that there is no embargo under Section 195(1)(b)(ii) of the CrPC to examine the criminal allegation of forgery of documents filed in Court, when such forgery is committed before its production in Court. The relevant extracts are reproduced herein:

"25. An enlarged interpretation to Section 195(1)(b)(ii), whereby the bar created by the said provision would also operate whereafter commission of an act of forgery the document is subsequently produced in court, is capable of great misuse. As pointed out in *Sachida Nand Singh* [*Sachida Nand Singh v. State of Bihar*, (1998) 2 SCC 493 : 1998 SCC (Cri) 660] after preparing a forged document or committing an act of forgery, a person may manage to get a proceeding instituted in any civil, criminal or revenue court, either by himself or through someone set up by him and simply file the document in the said proceeding. He would thus be protected from prosecution, either at the instance of a private party or the police until the court, where the document has been filed, itself chooses to file a complaint. The litigation may be a prolonged one due to which the actual trial of such a person may be delayed indefinitely. Such an interpretation would be highly detrimental to the interest of the society at large.

...

"33. In view of the discussion made above, we are of the opinion that *Sachida Nand Singh* [*Sachida Nand Singh v. State of Bihar*, (1998) 2 SCC 493 : 1998 SCC (Cri) 660] has been correctly decided and the view taken therein is the correct view. Section 195(1)(b)(ii) CrPC would be attracted only when the offences enumerated in the said provision have been committed with respect to a document after it has been produced or given in evidence in a proceeding in any court i.e. during the time when the document was in *custodia legis*."

(Emphasis supplied)

8. In the present case, the allegation in the complaint is that the respondents had fraudulently obtained stamp paper and prepared an unregistered sale agreement. Thereafter, suit was filed by the respondents seeking certain reliefs and, in the suit, the forged

document was filed. The allegations do not indicate that the documents were forged when the matter was sub-judice before the Civil Court. Accordingly, as per the ratio in *Iqbal Singh* (supra) the bar under Section 195(1)(b)(ii) of the CrPC is not attracted. Following the above, and noticing the apparent error in foundation of the impugned order of the High Court dated 06.10.2022, the same is set aside and quashed. The appeals are allowed. It is ordered accordingly.

9. Before parting, it is made clear that the present order is only in the context of the impugned order of the High Court dated 06.10.2022 and we have not pronounced on the merit of the pending case of either party.

10. Pending application(s), if any, stand closed.

..... J.

[HRISHIKESH ROY]

..... J.

[R. MAHADEVAN]

NEW DELHI;
SEPTEMBER 10, 2024.

ITEM NO.29

COURT NO.5

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s).5805/2023

(Arising out of impugned final judgment and order dated 06-10-2022 in CRLP No. 10551/2019 passed by the High Court Of Judicature At Madras)

AROCKIASAMY

Petitioner(s)

VERSUS

THE STATE OF TAMIL NADU & ANR.

Respondent(s)

(FOR ADMISSION and I.R.

IA No. 71932/2023 - EXEMPTION FROM FILING O.T.)

WITH

SLP(Crl) No. 5806/2023 (II-C)

IA No. 78732/2023 - EXEMPTION FROM FILING O.T.)

SLP(Crl) No. 6624/2023 (II-C)

IA No. 79763/2023 - EXEMPTION FROM FILING O.T.)

SLP(Crl) No. 6625/2023 (II-C)

IA No. 88969/2023 - EXEMPTION FROM FILING O.T.)

Date : 10-09-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HRISHIKESH ROY

HON'BLE MR. JUSTICE R. MAHADEVAN

For Petitioner(s)

Dr. P. V. Saravananaraja, AOR

Mr. P. Veerappan, Adv.

Ms. Shivangi Singh, Adv.

Ms. Saket Gautham, Adv.

Mr. Tekchand, Adv.

Mr. Aakash Shankar, Adv.

Mr. Aakash Ravi, Adv.

For Respondent(s)

Mr. V Krishnamurthy, Sr. A.A.G.

Mr. D. Kumanan, AOR

Ms. Deepa S, Adv.

Mr. Sheikh F Kalia, Adv.
Ms. Azka Sheikh Kalia, Adv.
Mr. Veshal Tyagi, Adv.
Mr. Chinmay Anand Panigrahi, Adv.

M/S. Ram Sankar & Co, AOR
Mr. S Prakash, Adv.
Mr. Puneet Singh Bindra, Adv.
Dr. Ram Sankar, Adv.
Mrs. Harini Ramsankar, Adv.
Ms. R V Shaarumathi, Adv.
Ms. Sujatha Bagadhi, Adv.
Mr. Debasish Mishra, Adv.
Ms. Sanya Minhas, Adv.
Mr. E Sathiyaraj, Adv.

Mr. M.P. Parthiban, AOR
Mr. R. Sudhakaran,
Mr. Bilal Mansoor, Dv.
Mr. Shreyas Kaushal, Adv.
Mr. S. Geyolin Selvam, Adv.
Mr. Alagiri K, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are allowed in terms of the signed order.

Pending application(s), if any, stand closed.

[DEEPAK JOSHI]
ASTT. REGISTRAR-cum-PS

[KAMLESH RAWAT]
ASSISTANT REGISTRAR

(Signed Order is placed on the File)