



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.19592 of 2021

&

Crl.M.P. (MD)No.3176 of 2022

1. Abdul Kani

2. Rehana Begam

3. Narayanasamy

...Petitioners

Vs.

1.State represented by  
The Inspector of Police,  
District Crime Branch,  
Thanjavur.  
(In Crime No.78 of 2021)

2. The Additional Director General of Police,  
Economic Offences Wing,  
Chennai.

3. A.W.Thameem Ansari

... Respondents

**Prayer:** This Criminal Original Petition filed under Section 482 Cr.P.C.to call for the records of the FIR in Crime No.78 of 2021 dated 16.11.2021 registered on the file of the 1<sup>st</sup> respondent and quash the same as illegal in so far as the petitioners are concerned.

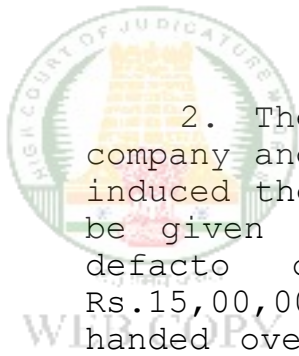
For Petitioner : Mr.C.Arul Vadivel @ Sekar

For Respondents : Mr.R.M.Anbunithi  
Additional Public Prosecutor (Criminal Side)  
for R1 & R2

Mr. Ajmal Khan  
Senior Counsel  
M/s.Ajmal Associates for R3

**ORDER**

This Criminal Original Petition has been filed to quash the First Information Report in Crime No. 78 of 2021 on the file of the 1<sup>st</sup> Respondent.



2. The prosecution case is that A2 was running a transport company and he invited investors to invest money in his company and induced them to invest Rs.5,00,000/- on the assurance that he would be given Rs.11,000/- per month. Having faith in his words, the defacto complainant, handed over cheques for a sum of Rs.15,00,000/-. After receiving the cheques, on 01.02.2016, A2 handed over a stamped paper to the defacto complainant and three unregistered deeds of undertaking in respect of the sum mentioned in the three cheques. On hearing demise, the defacto complainant went to the company only to see the locked doors. In that regard a case in Crime No.78 of 2021 was registered against the petitioners under Sections 406 and 420 IPC.

3.The learned Counsel appearing for the petitioners would submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No. 78 of 2021 for the offences under Sections 406 and 420 IPC as against the petitioners.

4.The learned Additional Public Prosecutor would submit that the investigation has been transferred from the first respondent to Deputy Superintendent of Police, EOW, Trichy and pending for investigation.

5.Heard both sides and perused the materials available on record.

6.It is seen from the First Information Report that there are specific allegations as against the petitioners, which have to be investigated. Further the FIR is not an encyclopedia and it need not contain all facts. Further, 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.It is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in Crl.A.No.255 of 2019 dated 12.02.2019 - *Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors.*, as follows:-

*"4. The only point that arises for our consideration in this case is whether the High Court was right in setting aside the order by which process was issued. It is settled law that the Magistrate, at the stage of taking cognizance and summoning, is required to apply his judicial mind only with a view to taking cognizance of the offence, or in other words,*



to find out whether a prima facie case has been made out for summoning the accused persons. The learned Magistrate is not required to evaluate the merits of the material or evidence in support of the complaint, because the Magistrate must not undertake the exercise to find out whether the materials would lead to a conviction or not.

5. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same. 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 for the High Court to interfere.

6.....

7.....

8.....

9. Having heard the learned Senior Counsel and examined the material on record, we are of the considered view that the High Court ought not to have set aside the order passed by the Trial Court issuing summons to the Respondents. A perusal of the complaint discloses that prima facie, offences that are alleged against the Respondents. The correctness or otherwise of the said allegations has to be decided only in the Trial. At the initial stage of issuance of process it is not open to the Courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Criminal complaints 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. In view of the above discussion, this Court is not inclined to quash the First Information Report. Hence this Criminal Original Petition stands dismissed. However, now the investigation has been transferred from the first respondent to Deputy Superintendant of Police, EOW, Trichy and it is pending for investigation. Considering the above the Deputy Superintendant of Police, EOW, Trichy is directed to complete the investigation within 16 weeks, from the date of receipt of a copy of this order. The second respondent is directed to monitor the investigation done by the Deputy Superintendant of Police, EOW, Trichy and ensure that Deputy Superintendant of Police, EOW, Trichy is complying with the order passed by this Court. It is also seen that there are incidents to attract offence under TNPID Act. Even then, the investigation agency failed to alter the offence. Considering the above, Deputy Superintendant of Police, EOW, Trichy is directed accordingly and file an alteration of offences and proceed with the investigation. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar (CS)

PNM

**Note:**

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. State represented by  
The Inspector of Police,  
District Crime Branch,  
Thanjavur.  
(In Crime No.78 of 2021)
2. The Deputy Superintendent of Police,  
Economic Offences Wing,  
Trichy.
3. The Additional Director General of Police,  
Economic Offences Wing,  
Chennai.



4. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1 CC to M/s.C.ARUL VADIVEL @ SEKAR, Advocate ( SR-11019[F] dated  
10/03/2022 )

**Crl.O.P. (MD)No.19592 of 2021**  
**& Crl.M.P. (MD)No.3176 of 2022**  
**09.03.2022**

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