



Crl.O.P.No.1950 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2025

CORAM:

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

Crl.O.P.No.1950 of 2024

and

Crl.M.P.No.1398 of 2024

Anbarasan

... Petitioner

Vs

1. State rep by,
The Inspector of Police,
W-21 Guindy, All Women Police Station,
Chennai District.

2. Bhagyasri
(Crime No.06 of 2021)

... Respondents

Prayer:Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records proceeding of which is pending on the file of the 1st Respondent is liable to be quashed in Crime No.06 of 2021 for the offence 417, 376 IPC on the file of W-21, All Women Police Station, Guindy, Chennai quash the same.

For Petitioner : Mr.D.Padmanabhan

For Respondents : Mr.K.M.D.Muhilan,

Government Advocate (Crl. Side) (for R1)



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ORDER

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2. The case of the prosecution is that the petitioner and the second respondent fell in love. In fact, the petitioner compelled the second respondent to love him by threatening to commit suicide. Thereafter, on the pretext of marriage, the petitioner compelled the second respondent to have sexual intercourse, due to which she got pregnant on two occasions, and on the compulsion of the petitioner, the pregnancies were aborted. On the third occasion, she got pregnant, and when the second respondent asked the petitioner to marry her, the petitioner refused to marry her. Therefore, the second respondent lodged a complaint before the first respondent, but no action was taken on the complaint lodged by the second respondent. As such, the second respondent was constrained to file a complaint under Section 156(3) of Cr.P.C. in Crl.M.P.No.22 of 2021 before the IX Metropolitan Magistrate Court, Saidapet, Chennai. Thereafter, as directed by the Trial Court by order dated 12.02.2021, the first respondent registered a First Information Report in Crime No.06 of 2021 for the offences under Sections 417 and 376 of IPC.



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3. The learned counsel for the petitioner would submit that there was no relationship between the petitioner and the second respondent, and that they were merely acquaintances with each other as friends. That apart, the pregnancy of the second respondent was not due to the petitioner, and he also produced a DNA test report. He would further 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.06 of 2021 for the offences under Sections 417 and 376 of IPC, as against the petitioner. Hence he prayed to quash the same.

4. The learned Government Advocate (Crl.Side) appearing for the first respondent Police would submit that the investigation is almost completed and only the final report is yet to be filed by the first respondent.

5. Heard the learned Counsel for the petitioner and learned Government Advocate (Crl.Side) appearing for the first respondent Police and perused the materials placed on record.



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6. Though the DNA test report reveals that the petitioner is not the biological father, it does not mean that the petitioner did not have any sexual intercourse with the second respondent. There are specific allegations that only on the pretext of marriage, that too on compulsion, the petitioner had sexual intercourse with the second respondent.

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



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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



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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 deserve to be investigated*



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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, first respondent is directed to complete the investigation in Crime No.06 of 2021 and file a final report within a period of three months from the date of receipt of a copy of this order, before the jurisdiction Magistrate, if not already filed.



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WEB COPY 11. Accordingly, this Criminal Original Petition stands dismissed.

Consequently, the connected Miscellaneous Petition is closed.

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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,
W-21 Guindy, All Women Police Station,
Chennai District.
2. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J,

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