



Crl.O.P.No.1331 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 07.03.2025

CORAM:

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

Crl.O.P.No.1331 of 2025

and

Crl.M.P.No.740 of 2025

V.S.Muthuramasamy

... Petitioner

Vs

1. The Rep by
The Deputy Superintendent of Police,
Gopichettyayalam.

2. The Inspector of Police,
Gopichettipalayam Police Station.
(in Cr.No.597/2024)

3. M.Prabha

... Respondents

Prayer:Criminal Original Petition filed under 482 of Cr.P.C., to call for the records of the F.I.R. in Cr.No.597/2024 on the file of the 2nd respondent police dated 16.11.2024 and quash the final report.

For Petitioner : Mr.S.Parthasarathi

For Respondents : Mr.A.Gopinath
Govt. Advocate (Crl. Side) (for R1 & R2)
Mr.B.Mohan (for R3)



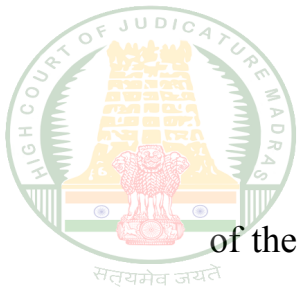
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ORDER

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This petition has been filed to quash the First Information Report in
in Crime No.597 of 2024 on the file of the second respondent police.

2. On the complaint lodged by the third respondent, the first respondent registered the First Information Report in Crime No. 597 of 2024 for the offences punishable under Sections 329(4), 296(b), 115(2), 305, 324(4), and 351(2) of BNS r/w Sections 3(1)(r), 3(1)(s), and 3(2)(va) of the SC/ST Prevention of Atrocities Act, 1989, alleging that the third respondent had executed a sale deed in respect of her house in the year 2014 in favour of the petitioner on the borrowed loan on the condition that when the third respondent returned the entire loan amount, the petitioner shall have to re-convey the said house property in favour of the third respondent. The possession of the said house was also not handed over to the petitioner at the time of execution of the sale deed. After repayment of the entire loan amount along with interest, when the third respondent insisted that the petitioner re-convey the property, the petitioner refused to do so. That apart, on 16.11.2024, the petitioner, along with his henchmen, went to the house



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of the third respondent and ransacked the entire house and also attacked the family members of the third respondent. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the sale deed was executed in the year 2014 by the third respondent in favour of the petitioner. In fact, the petitioner and the third respondent were working in the same school as teachers, and while the third respondent cheated the general public while conducting a chit, the petitioner only helped by giving a huge amount of money. Therefore, the third respondent had executed the sale deed in favour of the petitioner in the year 2014, and there was no condition to re-convey the said property after repaying the entire loan amount. Therefore, no offences are made out as against the petitioner. He 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 second respondent police registered a case in Crime No. 597 of 2024 for the offences punishable under Sections 329(4), 296(b), 115(2), 305, 324(4), and 351(2) of BNS r/w Sections 3(1)(r), 3(1)(s), and 3(2)(va) of the SC/ST Prevention of Atrocities Act, 1989, as against the petitioner. Hence he prayed to quash the same.



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4. The learned Government Advocate (Crl.Side) appearing for the first and second respondents 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. On a perusal of the First Information Report, it reveals that there are specific allegations as against the petitioner, that the petitioner assured to re-convey the property after repayment of the entire loan borrowed by the third respondent. Further, since the third respondent is in possession and enjoyment of the subject property, it shows that there was an undertaking by the petitioner to re-convey the house property after repayment of the entire loan amount. When the third respondent refused to vacate the house, the petitioner went to the house of the third respondent and ransacked the entire house. Therefore, all the offences are clearly attracted as against the petitioner, and there is absolutely no ground to quash the First Information Report.



7. 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.

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



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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.

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 :-

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“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*



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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;”

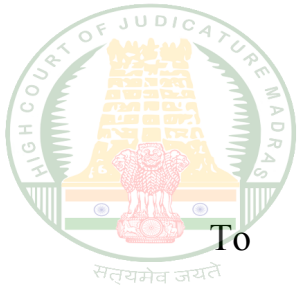
10. In view of the above discussions, this Court is not inclined to quash the First Information Report. However, the second respondent is directed to complete the investigation in Crime No.597 of 2024 and file a final report within a period of three months from the date of receipt of copy of this order, before the jurisdiction Magistrate, if not already filed.

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

07.03.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

kv



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To

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1. The Deputy Superintendent of Police,
Gopichettipalayam.
2. The Inspector of Police,
Gopichettipalayam Police Station.
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J,

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