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CRL.O.P.No.1342 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2025

CORAM

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

Crl.O.P.No.1342 of 2025

AND

Crl.M.P.No.750 of 2025

1.Selvakumar
2.Prasanna
3.Manojikumar
4.Krishnamoorthy
5.Duraiyammal
6.Rajkumar
7.Sangeetha

.. Petitioners

Vs.

1.State rep. by
The Inspector of Police
Ambur Taluk Police Station
Vellore District

2.Dhanalakshmi

.. Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in crime No.317 of 2019 on the file of the 1st respondent and quash the same.

For Petitioners : Mr.K.Thenrajan

For 1st Respondent : Mr.A.Gopinath
Government Advocate (Crl. Side)

For 2nd Respondent : Mr.P.A.Sudesh Kumar

ORDER



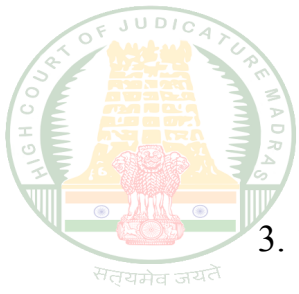
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This Criminal Original Petition has been filed to quash the FIR in crime

No.317 of 2019 on the file of the 1st respondent.

2. The case of the prosecution is that the 2nd respondent had married the 1st petitioner on 29.08.1997 and out of the wedlock, the couple had two children and they are under the care and custody of the 1st petitioner. The 2nd respondent filed a petition for restitution of conjugal rights and the 1st petitioner filed a divorce petition. After trial, the petition filed by the 2nd respondent was allowed and the petition filed by the 1st petitioner was dismissed. On the strength of the said order, on 27.05.2019, the 2nd respondent went to the house of the 1st petitioner and it was restrained by the 1st petitioner. On 04.06.2019, the 2nd respondent closed the house of the 1st petitioner, which lead to the exchange of blows between the 1st petitioner and the 2nd respondent. In the said incident, the other family members of the 1st petitioner assaulted the 2nd respondent and her parents, due to which, they sustained injuries and had taken treatment. Based on the complaint lodged by the 2nd respondent, the 1st respondent registered a case in crime No.317 of 2019 for the offences under Sections 147, 148, 294(b), 323, 324 and 506(II) IPC.



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3. The learned counsel for the petitioners would submit that the petitioners are family members and the 2nd respondent is the wife of the 1st petitioner. The 1st petitioner and the 2nd respondent are spouses and they gave birth to the petitioners 2 and 3. Due to some misunderstanding, the 1st petitioner and the 2nd respondent got estranged. The 2nd respondent filed a petition for restitution of conjugal rights in H.M.O.P. No.178 of 2017 on the file of the District Court, Tirupathur and the same was decreed. Simultaneously, the 1st petitioner also filed a petition for divorce on the ground of adultery and cruelty and the same was dismissed. Aggrieved by the said order, the petitioner preferred appeals and both the appeals were allowed and thereby, divorce was granted and conjugal rights granted stood dismissed. Further, the FIR was registered in 2019 for the offences under Sections 147, 148, 294(b), 323, 324 and 506(II) IPC and the 1st respondent has not filed charge sheet so far. Hence, he prayed to quash the same.

4. The learned counsel for the 2nd respondent submitted that after obtaining order in restitution of conjugal rights petition, when the 2nd respondent along with her mother went to the 1st petitioner's house, the family members of the 1st petitioner assaulted them, in which, the 2nd respondent sustained fracture on her left hand and her mother also sustained injuries. Therefore, the 1st respondent rightly



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registered the FIR.

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5. Heard the learned counsel appearing on either side and perused the materials placed on record.

6. On perusal of the FIR, there are specific allegations as against the petitioners to constitute the offences registered in the FIR in crime No. 317 of 2019, which has to be investigated in depth. There is no dispute that the 2nd respondent sustained fracture, due to the occurrence that took place on 04.06.2019. 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



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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



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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;*

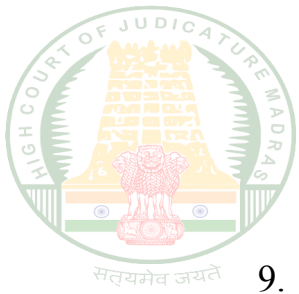
vii) *Quashing of a complaint/FIR should be an exception rather than an ordinary rule;*

.....

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;*
.....”



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9. In view of the above discussion, this Court is not inclined to quash the FIR. However, considering that the crime number is of the year 2019, the 1st respondent is directed to complete the enquiry in crime No.317 of 2019 and file a final report within a period of twelve weeks from the date of receipt of a copy of this order, before the jurisdictional Magistrate, if not already filed.

Accordingly, this Criminal Original Petition stands dismissed. Connected Crl.M.P. is closed.

19.02.2025

gya

Index : Yes/No

NC : Yes/No

To

1.The Inspector of Police
Ambur Taluk Police Station
Vellore District

2.The Public Prosecutor
High Court, Madras



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G.K.ILANTHIRAIYAN, J.

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