



Crl.O.P.No.4823 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 21.02.2025

CORAM:

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

Crl.O.P.No.4823 of 2025

1. Ashokkumar

2. Jothikumar

... Petitioners

Vs.

1. State Represented by its
Inspector of Police,
CCB-I, Job Racket Wing,
Chennai.
(Crime No. 173 of 2021)

2. Karthik

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to call for the records in Crime No.173 of 2021 on the file of Inspector of Police, CCB – I, Job Racket Wing, Chennai and quash the same.

For Petitioners : Mr. K.Sudharshanan

For Respondents : Mr. K.M.D.Muhilan
Govt. Advocate (Crl. Side) (for R1)



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ORDER

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This petition has been filed to quash the F.I.R. in Crime No.173 of 2021 registered by the first respondent police for offences under Sections 406, 420, 465, 468, 471 and 34 of IPC, as against the petitioners.

2. The case of the prosecution is that the petitioners A1 & A2 were introduced to one Kannan, who was also the complainant in this case, by one Masilamani, who had previously approached the petitioners to get posting in a political party, where the 2nd petitioner herein A2 was state Vice President in the year 2019. It is found that both Kannan and Kalaiselvan, mentioned in the complaint given by one Karthik S/o. Velusamy, hatched criminal conspiracy to misappropriate the funds obtained from complainants by providing false promises stating them, that they would get jobs in Government Sectors. In order to execute the conspiracy, Kalaiselvan herein A3, along with aide Kannan approached the 1st petitioner had manpower consultancy, at the particular point of time, the 1st petitioner had referred Kannan to Ramesh and Prabhu, both of them had tie-ups with several man power contractors across the nation and had manpower consultancy office at Mogappair, Chennai.



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2.1. The 1st petitioner was paid with around Rs. 20,00,000/- by the complainant Kannan to get Government jobs for 3 people. When the 1st petitioner paid the same to Ramesh and Prabhu, however, after a couple of weeks, both Ramesh and Prabhu had absconded after getting the money. However, the 1st petitioner had refunded the entire amount of Rs.20,00,000/- to complainant Kannan. It is further revealed that the complaint was total for an amount of Rs.57,95,000/- within which the complaint for an amount of Rs.18,97,600/- is given by none other than the above mentioned Kannan, who himself has paid Rs.12,00,000/- to get jobs for another 2 people in a short period of time after he paid twenty lakhs initially. However, the entire amount of Rs.32,00,000/- was refunded to Kannan and his aides (Rs.30,34,000/-) through multiple bank transfers and Rs.1,66,000/- as cash.

3. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent persons 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.173 of 2021 for the offences under Sections 406, 420, 465, 468, 471 and 34 of IPC, as against the petitioners. Hence he prayed to quash the same.



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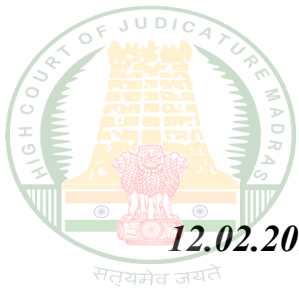
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4. The learned Government Advocate (Crl. Side) would submit that the investigation is almost completed and the first respondent police have only to file final report.

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

6. It is seen from the First Information Report that there are specific allegations as against the petitioners 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 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



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12.02.2019) held that the learned Magistrate while taking cognizance and

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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 not 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



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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*



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known procedure;

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.....

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;”

9. In view of the above discussions, this Court is not inclined to quash the First Information Report. However, considering the crime is of the year 2021, the first respondent is directed to complete the investigation in Crime No.173 of 2021 and file a final report within a period of eight weeks from the date of receipt of copy of this order, before the jurisdiction Magistrate, if not already filed.

10. Accordingly, this Criminal Original Petition stands dismissed.



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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,
CCB-I, Job Racket Wing,
Chennai.
2. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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