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Crl.O.P.No. 2864 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2025

CORAM:

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

Crl.O.P.No.2864 of 2024 and
Crl.M.P.Nos.2071 of 2024 and 5718 of 2025

1.Janani
2.Ravi Raj
3.Ramasamy

... Petitioners

Vs.

1.The State Rep.by,
Inspector of Police, (Crime),
Selaiyur Police Station,
Tambaram City.
(Crime No.488 of 2023).

2.Aruljothi

..Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for records in Crime No.488 of 2023 on the file of the first respondent and quash the same.

For Petitioners : Mr.B.Kumarasamy

For R1 : Mr.A.Gopinath,
Government Advocate (crl.side)

For R2 : Mr.K.M.Mohamed Ziauddin



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ORDER

This petition has been filed to quash the FIR in Crime No.488 of 2023 on the file of the first respondent, registered for the offences punishable under Sections 294(b), 420 and 506(1) of IPC.

2. The case of the prosecution, as per FIR, is that on 25.08.2023 at 10:00 A.M., based on a complaint received from the second respondent, a case was registered in Crime No.488 of 2023 for the offences punishable under Sections 294(b), 420 and 506(1) of IPC, alleging that over several years, the second respondent had given a total sum of Rs. 27,32,000/- to the petitioners, for construction and personal needs, based on promises including the handing over of property rights. Despite assurances and written undertakings, the money was not returned, nor was any property transferred. Further, on 08.08.2023, the petitioners 2 and 3 allegedly went to the residence of the second respondent, where they verbally abused him and his aged mother, physically assaulted them and issued threats to their lives. The accused are also alleged to have used forged power of attorney documents and obstructed prior police investigations. Hence, the



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complaint.
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3. The learned counsel for the petitioners submitted that the entire dispute is civil in nature and arises out of monetary transactions and construction-related agreements between the petitioners and the second respondent. It is contended that no criminal offence is made out as against the petitioners, and the allegations, even if taken at face value, do not attract any of the penal provisions invoked in the FIR. Hence, the continuation of the criminal proceedings is nothing but an abuse of process of law. Hence, prays to quash the FIR.

4. Per contra, the learned Government Advocate (Criminal Side) submitted that there are specific and serious allegations made as against the petitioners. It is submitted that the de-facto complainant had paid substantial sums of money to the petitioners and was assured transfer of property rights, but no such transfer took place. Instead, despite having handed over the original title deed to the second respondent, the first petitioner's mother executed a Power of Attorney in favour of the third petitioner, which was later used to alienate the property. That apart, the



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petitioners allegedly trespassed into the second respondent's residence, assaulted the second respondent and his aged mother and issued criminal threats. Therefore, the offences under Sections 294(b), 420, and 506 of IPC are clearly made out and the investigation must proceed.

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

6. On a perusal of the First Information Report, this Court finds that there are specific and serious allegations as against the petitioners which attract the ingredients of cognizable offences and warrant thorough investigation. It is well settled that an FIR is not expected to be an encyclopaedia of facts. The FIR in the present case discloses a *prima facie* commission of cognizable offences. Hence, this Court is not inclined to quash the FIR at this stage. The investigation machinery must be allowed to proceed in accordance with law to unearth the truth and bring the guilty to book.

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**

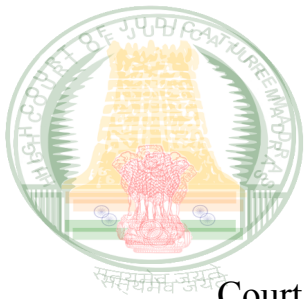


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Pokarnekhar vs. The State of Maharashtra & ors., (Crl.A.No.255 of

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 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



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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.

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 :-

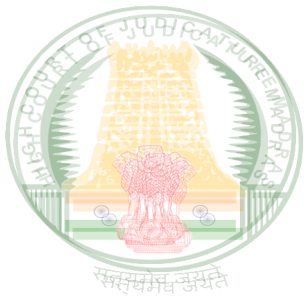
“23.

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 encyclopedia 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*



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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;”

9. In view of the above discussions, this Court is not inclined to quash the First Information Report in Crime No.488 of 2023. The first



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respondent is directed to complete the investigation in Crime No.488 of 2023 and file the final report within a period of twelve 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.

Consequently, connected miscellaneous petitions are closed.

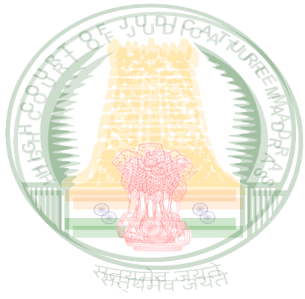
25.03.2025

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

To

1.The Inspector of Police, (Crime),
Selaiyur Police Station,
Tambaram City.

2. The Public Prosecutor,
High Court, Madras.



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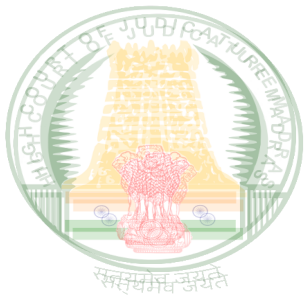


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G.K.ILANTHIRAIYAN, J.

shk

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