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CrI.O.P.No.3477 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2025

CORAM:

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

CrI.O.P.No.3477 of 2025
and CrI.M.P.No.2285 of 2025

Kannan

... Petitioner

Vs

1.The State represented by
The Inspector of Police,
E3 Sadras Police Station,
Chengalpattu.

2.Kavitha

... Respondents

Prayer : Criminal Original Petition has been filed under Section 528 of BNSS Act, 2023, pleaded to call for records in the FIR No.346 of 2024 dated 25.11.2024 on the file of the 1st respondent police and quash the same.

For Petitioner : Mr.Samir S.Shah
for Mr.S.John Josh

For R1 : Mr.R.Vinothraja
Government Advocate (CrI. Side)

For R2 : Mr.P.Dinesh Kumar

ORDER

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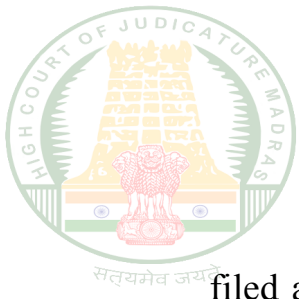
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This Criminal Original Petition has been filed to quash the FIR in Crime No.346 of 2024, on the file of the first respondent Police.

2. Heard both sides and perused the materials available on record.

3. The case of the prosecution is that the second respondent is the wife of the petitioner herein. It is alleged that after the death of the petitioner's first wife, he approached the parents of the defacto complainant with request to marry their daughter. Initially, the defacto complainant's parents refused the proposal. However, with the intervention of villagers, the defacto complainant agreed and the marriage was solemnized on 17.05.2019. It is further alleged that the petitioner married the second respondent solely for the purpose of domestic assistance for himself and his daughter. While being so, on 02.09.2023, the petitioner under the influence of alcohol, locked the defacto complainant inside a room and attempted to assault her with knife. The defacto complainant managed to escape, moved to another room and contacted her parents. When the defacto complainant's parents visited the house of the petitioner, the petitioner abused them in filthy language and prevented from entering into the house. Thereafter, the defacto complainant



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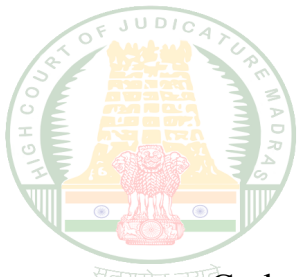
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filed a domestic violence complaint in DVC.No.2 of 2024 and maintenance petition in MC.No.1 of 2024 on the file of the District Munsif-cum-Judicial Magistrate Court, Thirukazhukundram. Thereafter, it is alleged that the petitioner threatened the defacto complainant through mobile phone and also intimidated her father to withdraw the case. Hence, the complaint.

4. On receipt of the complaint, the first respondent registered FIR in Crime No.346 of 2024 for the offences under Sections 351(2) of BNS, 2023 and Section 4 of TN Prohibition of Harassment of Women Act, 2002.

5. A perusal of FIR revealed that there are specific allegations to attract the above offences as against the petitioner. That apart, now, it is in FIR stage, 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

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6. 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 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



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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 the offence alleged against the accused are *prima facie* made out in the complaint, the criminal proceeding shall not be interdicted.

7. 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. 7

vi) *Criminal proceedings ought not to be scuttled at*



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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



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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;”

8. In view of the above discussions, this Court is not inclined to quash the First Information Report in Crime No.346 of 2024, on the file of the first respondent police. The first respondent is directed to complete the investigation in Crime No.346 of 2024 and file a final report, within a period of twelve weeks from the date of receipt of a copy of this order.

9. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous petition is closed.

24.03.2025

Index:Yes/No
Speaking Order: Yes/No
mn

G.K.ILANTHIRAIYAN,J.

mn



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1.The Inspector of Police,
E3 Sadras Police Station,
Chengalpattu.

2.The Public Prosecutor,
High Court, Madras.

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