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Crl.O.P.No.10057 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.10057 of 2025

and

Crl.M.P.No.6675 of 2025

K.B. Balan

... Petitioner

Versus

1. State Rep. by, The Inspector of Police, (Law and Order)
B1, Bazaar Police Station,
Kadar Veethy, Coimbatore.
(Crime No.316 of 2024)

2. P.S. Sivakumar

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in respect of F.I.R, in Crime No.316 of 2024 dated 13.12.2024 for the offences under Sections 406 and 420 of I.P.C., and to quash the same.

For Petitioner : Mr. P. Ayyachamy

For Respondents : Mr. R. Vinothraja, (for R1)
Government Advocate (Criminal Side)



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ORDER

This Criminal Original Petition has been filed to quash the F.I.R, in Crime No.316 of 2024 dated 13.12.2024 for the offences under Sections 406 and 420 of the Indian Penal Code, (IPC), 1860, pending on the file of the first respondent, as against the petitioner.

2. The case of the prosecution is that the petitioner is a dealer of the gold jewellery for the shop running by the defacto complainant. The petitioner received 24.510 grams of gold chain and 16.800 grams of gold chain, apart from which the petitioner was in due for payment with respect to jewels weighing for 7.730 grams of chain and baby bangles weighing 53.080 grams, which were returned to the defacto complainant. Therefore, the petitioner is in due for payment of the jewels weighing 4 kilograms, 196 grams and 290 milligrams. Despite the repeated requests and demands, the petitioner refused to return the jewels and no amount has been paid so far. Therefore, the second respondent lodged a complaint. Based on the complaint, the first respondent registered a case in Crime No.316 of 2024 dated 13.12.2024 for the offences under



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Sections 406 and 420 of the Indian Penal Code, (IPC), 1860.

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3. The learned counsel for the petitioner submitted that due to a dispute in business transactions in buying and selling gold jewels, which had taken place in the year 2016 and 2017, the second respondent/defacto complainant had lodged a false complaint against the petitioner. Further, he submitted that a case in counter has also been filed against the defacto complainant/second respondent, which is pending in C.S.R. No.51 of 2017 dated 28.02.2017 before the Ramanathapuram Police Station, Coimbatore City.

4. The learned Government Advocate (Criminal side) appearing for the first respondent submitted that the investigation is almost completed and the respondent police is yet to file a final report in this case.

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



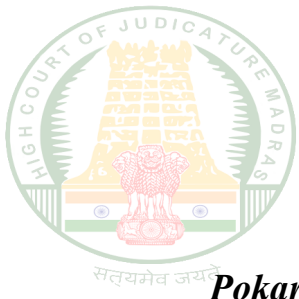
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6. On perusal of the First Information Report, it reveals that there was a dispute in business transactions between the petitioner and the defacto complainant, and there was a due from the year 2016-2017. The petitioner allegedly induced the second respondent to supply gold jewels but he failed to repay the amount within the stipulated time.

7. It is seen from the First Information Report that there are specific allegations as against these petitioners to attract the offences, 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 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***



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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 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



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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 :-

“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.*



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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



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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, considering the crime is of the year 2024, the first respondent is directed to complete the investigation in Crime No.316 of 2024 and file a 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.

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

04.04.2025

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

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To

- 1.The Inspector of Police, (Law and Order)
B1, Bazaar Police Station,
Kadar Veethy, Coimbatore.
(Crime No.316 of 2024)
- 2.The Public Prosecutor,
High Court,Madras.



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G.K.ILANTHIRAIYAN, J.

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