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CRL OP No. 4295 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-02-2025

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THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL OP No. 4295 of 2025

AND

CRL MP No. 2706 OF 2025

R.Rajalakshmi

Petitioner

Vs

State Rep By
The Inspector Of Police
Crime Branch Criminal Investigation
Department North, Vellore District.
Crime No.01 Of 2024

Respondent

PRAYER:- Criminal Original Petition filed under Sec. 528 of B.N.S.S., praying to call for the records relating to Crime no.1 of 2024 on the file of the respondent police and quash the same.

For Petitioner: Mr. P.Divakar

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

**ORDER**

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This Criminal Original Petition has been filed seeking to quash the FIR registered in Crime No.1 of 2024 on the file of the respondent, for the offences under Sections 115(2), 118(2), 146, 49 and 127(8) of the Bharatiya Nyaya Sanhita, 2023.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

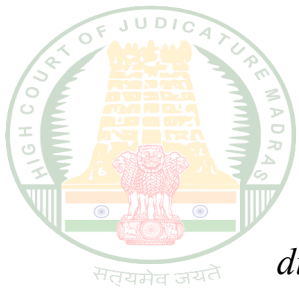
3. The case of the prosecution is that, based on the order passed by this Court in W.P.No.19668 of 2024, filed by one S.Kalavatahi, seeking a direction to consider her representation dated 02.07.2024 and to provide proper medical treatment to her son Sivakumar (Convict No.2209), who is lodged in the Central Prison, Vellore. In her petition, she alleged that her son had been assaulted by prison authorities and was placed in solitary confinement on the basis of false allegations that he had stolen a sum of Rs.4.50 lakhs, silver jewellery and other articles from the residence of the petitioner. Pursuant to the same, by order dated 09.08.2024 in the said writ petition, this Court directed the learned Chief Judicial Magistrate, Vellore, to meet the convict prisoner



Sivakumr, record his statement regarding the alleged incidents at the petitioner's residence and in the prison, and to submit a report along with his assessment and opinion.

4. The learned Chief Judicial Magistrate, Vellore, submitted a report dated 04.09.2024, wherein it was observed that there was illegal use of convict prisoners at the residences of jail authorities in violation of the Prison Manual. The report also recorded instances of harassment and torture of the convict prisoner inside the prison, including solitary confinement. Based on the said report, this Court, by an order dated 05.09.2024 in W.P.No.19668 of 2024, directed the Superintendent of Police, CBCID, Chennai, to register criminal cases based on the findings and recommendations of the Chief Judicial Magistrate, Vellore, dated 04.09.2024 against all the offenders and commence investigation forthwith. Pursuant to the order of this Court, the respondent police registered the present FIR. Hence, the case.

5. The directions issued by this Court in W.P.No.19668 of 2024, dated 05.09.2024, reads as follows :



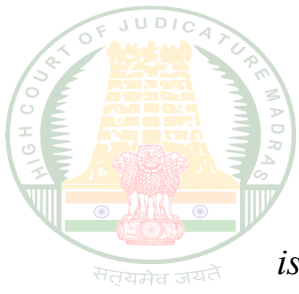
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(i) *The Registrar General, High Court, Madras, is directed to communicate a copy of the report submitted by the learned Chief Judicial Magistrate, Vellore, dated 04.09.2024 along with the statements enclosed therein, in a sealed cover, to the Director General of Prisons and Correctional Service, Whannels Road, Egmore, Chennai and the Superintendent of Police, CBCID, Chennai by today.*

(ii) *The Director General of Prisons, on receipt of the said report, is directed to examine the contents and initiate all departmental actions against the erred officials under the relevant Act and Rules within a period of ten days from today.*

(iii) *The Superintendent of Police, CBCID, Chennai, is directed to register criminal cases based on the report of the learned Chief Judicial Magistrate, Vellore, dated 04.09.2024 against all the offenders and commence investigation forthwith and intimate the actions taken at the end of CBCID to this Court on 20.09.2024.*

(iv) *The convict prisoner Mr.Sivakumar, S/o.Sathish, aged about 30 years, Ct.No.2209, who is now confined in Central Prison, Vellore, is directed to be transferred to the Central Prison, Salem by tomorrow (06.09.2024)*



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(v) *The Superintendent of Prison, Central Prison, Salem,*
is directed to provide all necessary medical treatment to the
convict prisoner Mr.Sivakumr, S/o.Sathish immediately and if
necessary, by admitting him in the hospital.

6. In view of the above, the respondent registered the FIR and it is pending for investigation. In fact, there are several victims and as such, the investigation has to be done further. 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.

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 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 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 :-

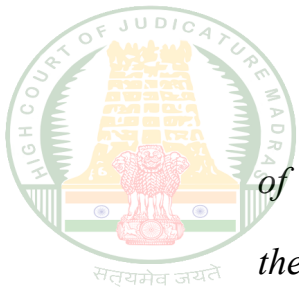
“23.

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*



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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. However, the respondent is directed to complete the investigation in Crime No.1 of 2024 and file a final report within a period of sixteen weeks from the date of receipt of a copy of this Order.



10. Accordingly, this Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Inspector Of Police

Crime Branch Criminal Investigation Department North,
Vellore District.

2. The Public Prosecutor, High Court, Madras.



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G.K.ILANTHIRAIYAN J.

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