



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. 4252 of 2025

AND

CRL MP NO. 2679 OF 2025

1. MUTHUSAMY

S/o.Arumugam

2. REKHA

W/o.Muthusamy

3. KUMAR

S/o.Muthulingam

4. RASATHI

D/o.Kumar

5. DHARMALINGAM

S/o.Kurusamy

6. KALAISELVI

W/o.Dharmalingam

7. KASI

S/o.Periyasamy

8. PERIYASAMY

S/o.Muthusamy



9. MUTHAIYA
S/o.Arumugam

WEB (10) JOTHI

W/o.Arumugam

11. ELAIYARAJA
S/o.Periyasamy

12. SARASHWATHI
W/o.Periyasamy

13.Nadarajan @ Mammoottyan
S/o.Periyasamy

14. KAMARAJ
S/o.Periyasamy

Petitioners

Vs

1. The State
Rep.By Its The Station House Officer,
V.Kalathur Police Station,
Perambalur District.

2.PICHAIMUTHU

Respondents

PRAYER :- Criminal Original Petition filed under Sec. 528 of B.N.S.S.,
praying to call for the records pertaining to a case in Crime No.178/2024 on the
file of 1st respondent and quash the same.



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For Petitioners: Mr.G.Prabhu

For Respondents: Mr.A.Gopinath
Government Advocate (Crl. Side)
for R1

ORDER

This Criminal Original Petition has been filed seeking to quash the FIR registered in Crime No.178 of 2024 on the file of the first respondent, for the offences under Sections 147, 294(b), 447, 323, 324, 427 and 506(ii) of IPC.

2. The case of the prosecution is that, on 23.12.2023, while the second respondent and his son were removing the encroachment using earth mover, the petitioners had trespassed into the second respondent's land and threatened them with dire consequences using filthy languages. It is further alleged that the first petitioner assaulted the second respondent using hand and wooden log. Hence, the case was registered.

3. The learned counsel appearing for the petitioners submitted that the FIR was registered as directed by the District Munsif-cum-Judicial Magistrate, Veppanthattai, by an order dated 27.09.2024 in CrI.M.P.No.355 of

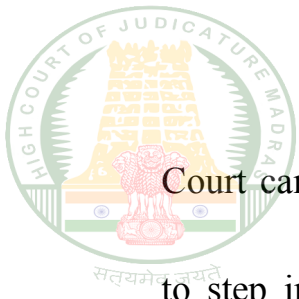


2024. However, it is contended that the learned Magistrate failed to afford an opportunity of hearing to the petitioners prior to issuing the direction to the first respondent to conduct an enquiry and register the FIR.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent. Perused the materials available on record.

5. A perusal of the order passed by the learned Magistrate reveals that the Magistrate directed the first respondent to conduct an enquiry and if any cognizable offence was made out, to register an FIR. Pursuant to the said direction, the first respondent conducted an enquiry and found that a prima faice case was made out against the petitioners for registration of the FIR. Accordingly, the first respondent registered the FIR.

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

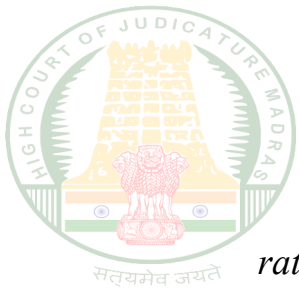


not necessary that a meticulous analysis of the case should be done before the trial to find out whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in the light of the statement made on oath that the ingredients 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 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;*



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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;”

9. In view of the above discussions, this Court is not inclined to quash the First Information Report. However, the first respondent is directed to complete the investigation in Crime No.178 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.

10. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

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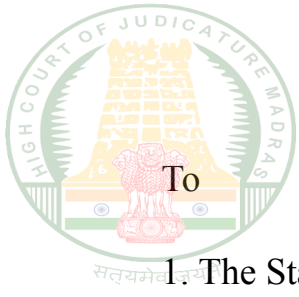
Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. The Station House Officer,
V.Kalathur Police Station, Perambalur District.

2. The Public Prosecutor, High Court, Madras.



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G.K.ILANTHIRAIYAN J.

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