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CRL OP No. 5037 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-02-2025

CORAM

THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL OP No. 5037 of 2025

1. A.Loganathan
S/o. Ayyaemperumal

2.S.Ayyemperumal
S/o. Singaram,

3.A.Jayamani
S/o. Ayyemperumal

4.M.Suryakala
W/o Manimaran

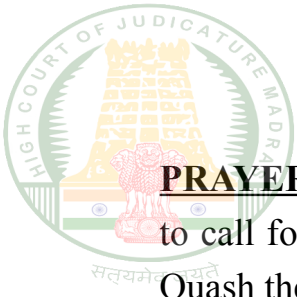
Petitioners

Vs

1. The Inspector Of Police
All Women Police Station, Kallakurichi
Taulk, Kallakurichi District.

2.Sandhiya

Respondent(s)



PRAYER :- Criminal Original Petition filed under Sec.528 of B.N.S.S., praying to call for records in Crime No.4 of 2025 on the file of Respondent police and Quash the same

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For Petitioners: Mr. G.Ranganathan

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.4 of 2025 on the file of the respondent police for the offences under Section 296(b), 82(1), 115(2) and 351(2) of the Bharatiya Nyaya Sanhita, 2023.

2. 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.

3. The first petitioner is the husband of the second respondent. The second respondent lodged a complaint alleging that she married the first petitioner on 10.11.2019 and that a male child was born out of the said wedlock. At the time of marriage, based on demand, the second respondent's family



members had presented 25 sovereigns of jewels and other articles worth about

Rs.1,00,000/-. Subsequently, the first petitioner frequently quarrelled with the

second respondent, attempted to murder her and physically assaulted her using

hands and legs. She was later driven out of the matrimonial home. That apart,

the first petitioner also got married to another woman, despite the subsistence of

his marriage with the second respondent.

4. 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 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.

5. 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



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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.

6. 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*



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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;

.....

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;”

7. Therefore, there are specific allegations have been made against the petitioner, which attract the offence under Sections 296(b), 82(1), 115(2) and



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351(2) of the Bharatiya Nyaya Sanhita, 2023. Hence, there is absolutely no grounds to quash the FIR at this stage. However, it is made clear that the FIR has been registered only for the purpose of investigation, which is to be conducted by the first respondent.

8 . In view of the above discussions, this Court is not inclined to quash the FIR in Crime No.4 of 2025 on the file of the first respondent. Accordingly, this Criminal Original Petition stands dismissed.

24-02-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Inspector Of Police

All Women Police Station, Kallakurichi Taluk,
Kallakurichi District.

2. The Public Prosecutor, High Court, Madras.



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G.K.ILANTHIRAIYAN J.

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