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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl. O.P. No. 5754 of 2025

Arun @ Angappan ... Petitioner

Vs.

1.State rep., by
The Inspector of Police,
R1, Mambalam Police Station,
Chennai.

2.Dhanasekar ... Respondent

Criminal Original Petition is filed under Section 528 of B.N.S.S., to call for the records and quash the F.I.R., in Crime No.39 of 2022 pending on the file of 1st respondent police.

For Petitioner : Mr. T.K.S. Gandhi
For Respondents : Mr. A. Gopinath for R1
Government Advocate (Crl. Side)

O R D E R

This Criminal Original Petition is filed to quash the FIR in Crime No.39 of 2022 pending on the file of the first respondent.

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2. The case of the prosecution is that, the petitioner and another had induced nearly 14 victims and received a sum of Rs.25,95,000/- promising to get job in the Central Government. Thereafter, the petitioner neither obtained any job nor returned money to the victims. Hence, the complaint.

3. Learned counsel for the petitioner would submit that insofar as the petitioner is concerned, he is arrayed as first accused. Learned counsel further submits that whatever the amounts collected from the victims, the petitioner would return the money and hence, he prayed to quash the FIR.

4. Since there are 14 victims and the petitioner assured to get Central Government job and received a sum of Rs.25,95,000/- from 14 victims, therefore, it is a crime as against the entire society.

5. 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

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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 into investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

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 take 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

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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 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 :-

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"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 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

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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; .....”

8. That apart, already the investigation is almost completed and about to file final report in Crime No.39 of 2022.

9. In view of the above, this Court is not inclined to quash the First Information Report. The first respondent is directed to complete the investigation in Crime No.39 of 2022 and file a final report within a period of 12 weeks from the date of receipt of copy of this order.

10. Accordingly, this Criminal Original Petition stands dismissed.

03.03.2025

Index : Yes / No
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To

1.The Inspector of Police,
R1, Mambalam Police Station,
Chennai.

2.The Public Prosecutor,
High Court, Madras.

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G.K.ILANTHIRAIYAN,J.

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