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CrI.O.P.No.7695 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2025

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.7695 of 2023

Saravanan

... Petitioner

Vs

1. State by
Inspector of Police,
J-7 Velacherry Police Station,
Chennai.
Crime No.462/2019

2. Gayathri

... Respondents

Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records of F.I.R. registered in Crime No.462/2019 dated 08.06.2019 pending on the file of the first respondent/J-7 Velachery Police and quash the same against the petitioner.

For Petitioner : Mr.C.Iyyanar

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



Crl.O.P.No.7695 of 2023

WEB COPY

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.462 of 2019 on the file of the first respondent, registered for the offences under Sections 294(b), 323 and 506(1) of IPC and Section 4 of TN Prohibition of Harassment of Women Act.

2. The case of the prosecution is that the petitioner and his family members suppressed the fact that the petitioner is suffering from mental illness and conducted marriage with the second respondent/defacto complainant on 20.08.2015. Out of the said marriage, the second respondent gave birth to a girl child and when the second respondent questioned the family members of the petitioner as to why they suppressed the mental illness of the petitioner, she was threatened and abused. In the evening on 01.06.2019, the petitioner attacked the second respondent and her family members brutally. Hence, the second respondent lodged a complaint before the first respondent police on 08.06.2019. Based on the complaint of the second respondent, case in Crime No.462 of 2019 was registered as against the petitioner and his relatives.



Crl.O.P.No.7695 of 2023

WEB COPY

3. The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.462 of 2019 for the offences under Sections 294(b), 323 and 506(1) of IPC and Section 4 of TN Prohibition of Harassment of Women Act, as against the petitioner. Hence he prayed to quash the same.

4. The learned Government Advocate (Criminal Side) appearing for the first respondent, on instructs, states that there is a counter complainant lodged by the petitioner and it has been registered in Crime No.463 of 2019 and it is pending. He further states that both the First Information Reports are pending for investigation.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the first respondent and perused the materials placed on record.

6. It is seen from the First Information Report that there are

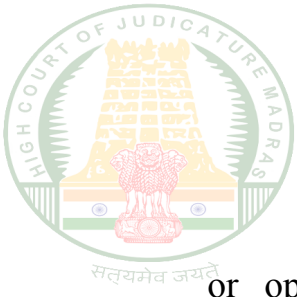


Crl.O.P.No.7695 of 2023

WEB COPY

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 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



Crl.O.P.No.7695 of 2023

WEB COPY

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.,***



Crl.O.P.No.7695 of 2023

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*



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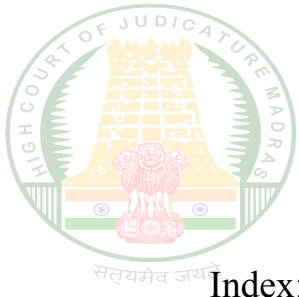
Crl.O.P.No.7695 of 2023

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 first respondent is directed to complete the investigation in both the First Information Reports in Crime Nos.462 and 463 of 2019 by following the procedure laid down under the Police Standing Order 566 and to file final reports within a period of two months from the date of receipt of a copy of this order, before the jurisdictional Magistrate, if not already filed.

10. Accordingly, this Criminal Original Petition stands dismissed.

07.04.2025



Crl.O.P.No.7695 of 2023

Index: Yes/No

Neutral Citation: Yes/No

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To

1. The Inspector of Police,
J-7 Velacherry Police Station,
Chennai.
2. The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.No.7695 of 2023

G.K.ILANTHIRAIYAN, J.

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Crl.O.P.No.7695 of 2023

07.04.2025