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CRL.O.P.No.5570 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.O.P.No.5570 of 2023

CrI.M.P.No.3484 of 2023

Monisha

... Petitioner

Vs.

1. The Inspector of Police,
Mylapore Police Station,
Chennai.

2. Sasikala

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records pertaining to FIR No.1027 of 2021 on the file of the second respondent, Mylapore Police Station, Chennai and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.B.Ramesh Babu

For Respondents

For R1 : Mr. R.Vinothraja
Government Advocate (CrI. Side)

For R2 : Mr.A.Mohamed Ismail



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ORDER

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This petition has been filed to quash the F.I.R. in Crime No.1027 of 2021 registered by the first respondent police for the offences punishable under Section 420 of IPC, as against the petitioner.

2. The case of the prosecution is that the petitioner and the second respondent were residing in the same hostel and due to friendly and cordial relationship, the second respondent lend money to the tune of Rs.2,00,000/- to the petitioner for her brother's education. When the second respondent asked to repay the said amount, the petitioner issued cheque and the same was returned for the reason “insufficient funds”. Hence, the complaint.

3. The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent person and she has not committed any offence as alleged by the prosecution. The petitioner had borrowed a sum of Rs.2,00,000/- and in order to repay the said amount, she issued a cheque. When the cheque was presented for collection, the same was returned for the reason “insufficient fund”. Now the petitioner is facing proceedings under Section 138 of the Negotiable Instruments Act. Therefore, the present complaint cannot be maintained. Hence he has prayed to quash the same.



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4. The learned Government Advocate (Crl. Side) appearing for the first respondent submitted that the investigation is almost completed and the respondent police have to only file final report.

5. Heard the learned Counsel appearing on either side and perused the materials placed on record.

6. On perusal of the records, it is revealed that the petitioner borrowed a sum of Rs.2,00,000/- from the second respondent and in order to repay the same, she issued a cheque. When the cheque was presented for collection, the same was returned for the reason “insufficient fund”. The petitioner issued the cheque without having sufficient fund in her account. Further there is absolutely no bar to register FIR, after initiation of proceedings under Section 138 of the Negotiable Instruments Act.

7. Further, it is seen from the First Information Report that there are specific allegations as against the petitioners to attract the offence, which has to be investigated in depth. Further the FIR is not an encyclopedia and it need not contain all the facts and it cannot be quashed in the threshold. This Court finds



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that the FIR discloses prima facie commission of cognizable offence and as

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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.

8. 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



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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.

9. 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*



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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 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;”

10. In view of the above discussions, this Court is not inclined to quash the First Information Report. However, considering the crime is of the



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year 2021, the first respondent is directed to complete the investigation in

Crime No.1027 of 2021 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.

11. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

07.04.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

rts

To

1. The Inspector of Police,
Mylapore Police Station,
Chennai.

2. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

rts

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