



Crl.O.P.No. 8026 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2025

CORAM:

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

Crl.O.P.No.8026 of 2025 and
Crl.M.P.No.5188 of 2025

1.Periasamy
2.Poovarasam

... Petitioners

Vs.

1.State by
Inspector of Police,
Barur Police Station,
Krishnagiri District.
(Crime No.128 of 2024).

2.Ganapathy

..Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in connection with the Crime No.128 of 2024 on the file of the first respondent and quash the same.

For Petitioners : Mr.K.Thiruvengadam

For R1 : Mr.A.Gopinath,
Government Advocate (crl.side)



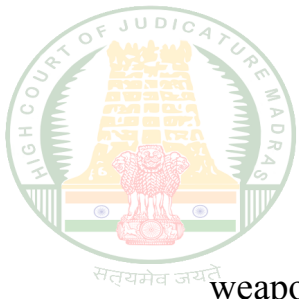
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ORDER

This petition has been filed to quash the FIR in Crime No.128 of 2024 on the file of the first respondent, registered for the offences punishable under Sections 296(b), 127(2), 118(1), 351(3) of the BNS, 2023.

2. The case of the prosecution is that on 08.09.2024 at about 3:00 P.M., upon receiving an intimation from the Government Medical College & Hospital, Dharmapuri, the first respondent deputed one Saminathan, the Sub-Inspector, to record the statement of the de-facto complainant. The complainant stated that there was a longstanding land dispute between his family and the deceased Palani. On the date of the incident, around 12:00 A.M., the deceased Palani and the petitioners attempted to lay a foundation slab on the disputed land. When the complainant's parents, namely, Kannayiram and Kavitha, questioned this, the said Palani allegedly instructed the petitioners to attack them. Following this, the said Palani and the petitioners indiscriminately attacked the complainant, his father, sisters, and relatives with deadly



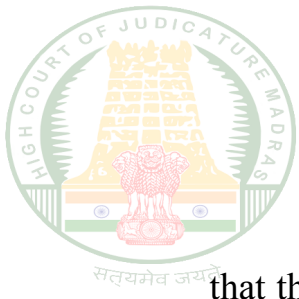
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weapons, and also issued life threats. The injured were taken to the hospital, and based on the de-facto complainant's statement, a case was registered in Crime No.128 of 2024 for the offences punishable under Sections 296(b), 127(2), 118(1), 351(3) of the BNS, 2023.

3. The learned counsel for the petitioner submitted that the present FIR is a counter-complaint, as the petitioner's father was allegedly murdered by the second respondent in connection with the same incident in Crime No.127 of 2024. It is argued that, in order to evade legal responsibility for this crime, the second respondent has falsely implicated the petitioners in the present case. The learned counsel contends that the FIR is an attempt to divert attention from the real crime, namely the murder of the petitioner's father, and thus, it is a fabricated case. Hence, he prays to quash the FIR.

4. The learned Government Advocate (crl.side) submitted that the present FIR is indeed a counter-complaint, which is currently under investigation, and in the interim, the second respondent has been detained under the Goondas Act. The Government Advocate (crl.side) emphasized



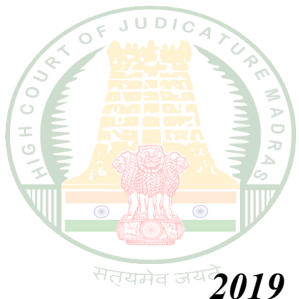
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that the investigation is ongoing and it would not be appropriate to quash the FIR at this stage, as it involves serious allegations that require proper scrutiny.

5. Heard both sides and perused the materials placed on record.

6. On a perusal of the First Information Report, this Court finds that there are specific and serious allegations as against the petitioner which attract the ingredients of cognizable offences and warrant thorough investigation. It is well settled that an FIR is not expected to be an encyclopaedia of facts. The FIR in the present case discloses a *prima facie* commission of cognizable offences. Hence, this Court is not inclined to quash the FIR at this stage. The investigation machinery must be allowed to proceed in accordance with law to unearth the truth and bring the guilty to book.

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***



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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



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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;*

vii) *Quashing of a complaint/FIR should be an exception rather than an ordinary rule;*

.....

xii) *The first information report is not an encyclopedia 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*



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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;”

9. In view of the above discussions, this Court is not inclined to quash the First Information Report in Crime No.128 of 2024. However, the first respondent is directed to conduct a comprehensive investigation in both Crime Nos.127 and 128 of 2024, strictly in accordance with the



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guidelines laid down in Standing Order No. 566 of the Police Standing Orders and file the 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 petition is closed.

19.03.2025

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

To

1. Inspector of Police,
Barur Police Station,
Krishnagiri District.

2. The Public Prosecutor,
High Court, Madras.



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