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Crl.O.P.No. 6488 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2025

CORAM:

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

Crl.O.P.No. 6488 of 2025

and

Crl.M.P.No.4147 of 2025

1.S.Dhanavel
2.D.Rajeswari

.... Petitioners

Vs

1.State Rep.By,
The Inspector of Police,
Malayampalayam Police Station,
Erode District.
In Crime No.80/2024.

2.R.Ramesh

..... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records culminating in Crime No.80/2024 pending on the file of the 1st respondent police and quash the same.

For Petitioners : Mr.B.Mohan

For R1 : Mr.K.M.D.Muhilan
Government Advocate (Crl.Side)



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ORDER

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This Criminal Original Petition has been filed seeking to quash the FIR registered in Crime No.80 of 2024 on the file of the first respondent for the offences under Sections 420, 418. 392 r/w 397 of IPC.

2. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Cl.Side) appearing for the first respondent. Perused the materials available on record.

3. The case of the prosecution is that the second respondent, who is a trader of rice grains, lodged a complaint before the respondent police alleging that he is acquainted with the 1st petitioner, the Managing Partner of a firm viz., VKS Agro & Foods. In the course of their business transaction, the petitioners incurred an outstanding liability of Rs.49,49,065/- towards the second respondent. In order to settle the said liability, the first petitioner offered the second respondent a partnership in his firm, with a promise of a monthly income of Rs.20,00,000/-. Further, the petitioners sought the second respondent's help to furnish a bank guarantee required for the renewal of his license as a hulling agent with the Tamil Nadu Civil Supplies Corporation, for which, the second respondent paid a sum of Rs.1,35,00,000/-.



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4. It is further stated that the petitioners received several other payments under various pretexts. Out of the total dues, the petitioner repaid only Rs.34,00,000/-. Therefore, the second respondent visited the rice mill of the petitioners and stopped its operations. After panchayat, it was decided that the petitioners owed a total sum of Rs.3,00,00,000/-. In order to adjust the outstanding dues, a lease agreement was entered into between the petitioners and the second respondent, under which the second respondent was permitted to operate the rice mill for a period of 48 months. The lease amount of Rs.2,50,000/- per month was to be adjusted towards the loan amount. However, in April, 2023, while the second respondent was in possession of the mill, the petitioners trespassed into the premises, threatened the workers and unlawfully took away rice worth of Rs.10,00,000/-, the loss of which was borne by the second respondent from his personal funds.

5. Further it is alleged that a bank account which was earlier operated jointly by the parties was unilaterally converted into a single signatory account by the petitioners. However, the payments from the Tamil Nadu Civil Supplies Corporation continued to be credited to that

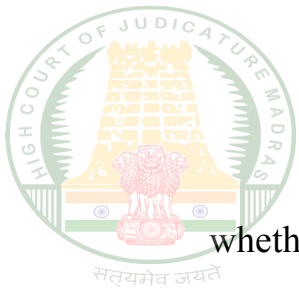


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account. When confronted, it is alleged that the petitioner, along with 50 members, forcibly entered the mill premises and threatened the staffs and other workers. Hence, the case was registered.

6. 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 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.

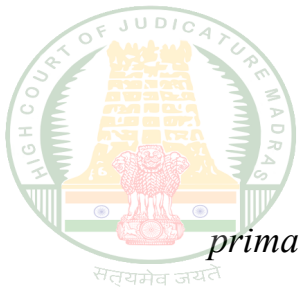
7. The Hon'ble Supreme Court of India passed in the judgment reported in **2019 (14) SCC 350** in the case of ***Sau. Kamal Shivaji Pokarnekar vs. The State of Maharashtra & ors.,*** (***Crl.A.No.255 of 2019*** dated **12.02.2019**) held that the learned Magistrate while taking cognizance and summoning, is required to apply his judicial mind only with the view to taking cognizance of the offence



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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



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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 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*



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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;

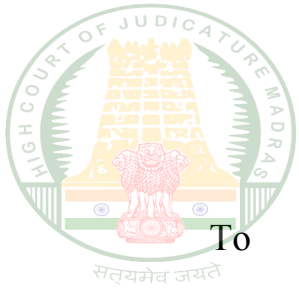
.....

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 FIR in Crime No.439 of 2015 pending on the file of the first respondent. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

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

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1. The Inspector of Police,
Malayampalayam Police Station,
Erode District.

2. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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