



Crl.O.P.No. 6663 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2025

CORAM:

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

Crl.O.P.No.6663 of 2025 and
Crl.M.P.No.4243 of 2025

S.D.Sankar

... Petitioner

Vs.

State by

1.The Inspector of Police,
Modakurichi Police Station,
Modakurichi, Erode District.
(Crime No.230 of 2016).

2.Shanmugam

..Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the entire records concerned in Crime No.230 of 2016 on the file of the Inspector of Police, Modakurichi Police Station, Modakurichi, Erode District and quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.C.Prakasam

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.230 of 2016 on the file of the first respondent, registered for the offences punishable under Sections 447, 294(b), 427 and 506(ii) of IPC.

2. The case of the prosecution, as per FIR, is that the second respondent's wife is the owner of a piece of land situated in R.S. No. 72/9 and 72/10, Kangayampalayam Village, Modakurichi Taluk, Erode District. She had cultivated banana trees on the said land. The petitioner owns land adjacent to hers. On 19.08.2016, the petitioner allegedly entered her land and cut down approximately 110 banana trees. Following this, on 20.08.2016, the second respondent's wife lodged a complaint, and the first respondent registered a Community Service Register (CSR) entry in CSR No. 148 of 2016. Subsequently, on 27.08.2016, the petitioner is said to have trespassed into her land again, and when she questioned him, he allegedly issued life threats.

3. The learned counsel for the petitioner submits that there was a

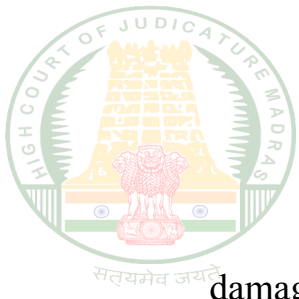


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long-standing boundary dispute between the petitioner and the second respondent, which often led to quarrels initiated by the second respondent against the petitioner and his mother. On 29.08.2016, when the petitioner's mother went to her land, the second respondent, along with his wife Poovathal and their son-in-law, allegedly attacked her. Nearby landowners intervened and rescued the petitioner's mother, who was first admitted to a private hospital and then to the Government Hospital, Erode. The first respondent police recorded her statement and registered an FIR in Crime No. 232 of 2016 against the second respondent and his wife. However, the police failed to conduct a proper enquiry and eventually referred the complaint without due investigation. Therefore, the petitioner seeks quashing of the FIR on the ground that continuation of the investigation would amount to abuse of process of law.

4. The learned Government Advocate (crl.side) submitted that there are specific allegations made as against the petitioner in the complaint lodged by the second respondent's wife, including trespass,



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damage to property, and criminal intimidation. Based on the said complaint, CSR No.148 of 2016 was issued and enquiry was conducted. A counter-allegation was also made by the petitioner, resulting in registration of FIR in Crime No.232 of 2016. After due investigation, the case was referred as per procedures. The police have acted within the bounds of law, and there is no material to suggest any malafide or lapse in the enquiry process.

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

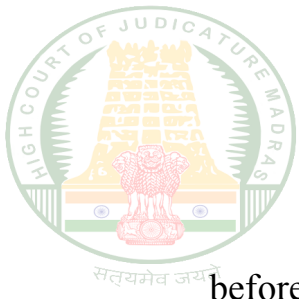


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bring the guilty to book.

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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 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



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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.***, as follows :-

“23.

vi) *Criminal proceedings ought not to be scuttled at the initial stage;*



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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 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*



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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.230 of 2016. However, the first respondent is directed to complete the investigation in Crime No.230 of 2016 and file the final report within a period of four 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.

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Neutral citation : Yes/No
Speaking/non-speaking order
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1. The Inspector of Police,
Modakurichi Police Station,
Modakurichi, Erode District.

2. The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN, J.

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