



Crl.O.P.No.6905 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 11.03.2025

CORAM:

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

Crl.O.P.No.6905 of 2025
and Crl.M.P.No.4426 of 2025

1. R.Venkatesh Gupta
2. R.Narasimman

... Petitioners

Vs

1. The State Rep By,
The Inspector of Police,
Kallakurichi Police Station,
Kallakurichi District.
Cr.No.175/2024.

2. V.Shanmugam

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C/ Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the entire records comprised in FIR in Cr.No.175 of 2024 dated 21.03.2024 pending on the file of first respondent the Inspector of Police, Kallakurichi Police Station, Kallakurichi and quash the same.

For Petitioners : Mr.M.Vimal Bobby Crimson
For R1 : Mr.A.Gopinath
Government Advocate (Crl.side)

ORDER



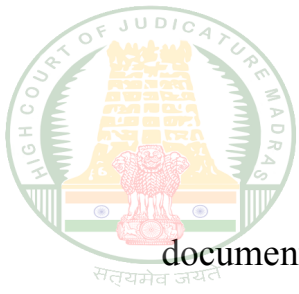
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This Criminal Original Petition has been filed to quash the FIR in

Cr.No.175 of 2024 on the file of the Respondent Police.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (CrI.side) for the first respondent and perused the materials available on record.

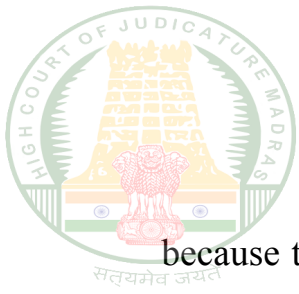
3. The first respondent registered FIR in Cr.No.175 of 2024 for the offences punishable under Sections 120B, 463, 464, 465, 467 and 506(I) of IPC alleging that the first petitioner's brother one Narayanan leased out a vacant land to an extent of 12 cents, 5230 sq.ft at Sundara Vinayakar Koil Street, Kallakurichi, in the year 2010 and paid a sum of Rs.7,00,000/- from the complainant's father to start two wheeler parking stand and entered into an unregistered lease agreement. Thereafter, the said Narayanan developed the property and also constructed a shed with the cost of Rs.4,00,000/-. Thereafter, in the year 2017, the first petitioner entered into another agreement to carry forward the earlier agreement clauses and also the security deposit. After the demise of the said Narayanan, there was a dispute between the first petitioner and the second respondent in continuing the two wheeler parking stand. The first petitioner also filed a suit in O.S.No.12 of 2024 along with certain



documents for injunction. Thereafter, it was found that the documents which were filed along with the said suit are fabricated documents.

4. A perusal of the FIR revealed that there are specific allegations as against the petitioners to attract the above said offences. That apart, now, it is in FIR stage, 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 its 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.

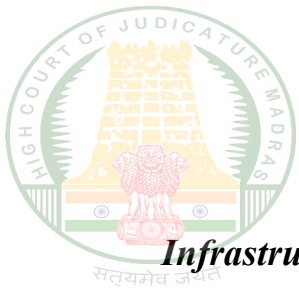
5. The Hon'ble Supreme Court of India passed in the judgment reported in **2019 (14) SCC 350** in the case of ***Sau. Kamal Shivaji Pokarnekar vs. The State of Maharashtra & ors., (Crl.A.No.255 of 2019*** dated **12.02.2019**) held that the learned Magistrate while taking cognizance and summoning, is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



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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 not 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.

6. 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 :-

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

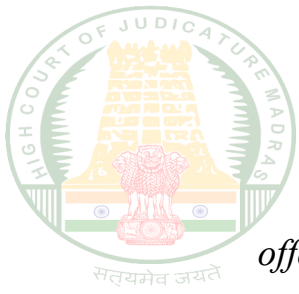
vii) Quashing of a complaint/FIR should be an exception rather than an ordinary rule;

.....

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 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



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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;”

7. In view of the above discussions, this Court is not inclined to quash the First Information Report in Crime No.175 of 2024. The first respondent is directed to complete the investigation in Crime No.175 of 2024 and file a final report, within a period of twelve weeks from the date of receipt of a copy of this order.

8. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous petition is closed.

11.03.2025

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
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To

1. The Inspector of Police,
Kallakurichi Police Station,
Kallakurichi District.
2. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J,

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