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CrI.O.P.No. 6381 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2025

CORAM:

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

CrI.O.P.No.6381 of 2024

and

CrI.M.P.No.4701 of 2024

Sagaya Raja

... Petitioner

Vs.

1.State rep by
Deputy Superintendent of Police,
Chennai North,
CSCID - Chennai.
Crime No.433 of 2021.

2.John Sundar S
Deputy Superintendent of Police,
Chennai- North Police Station.

..Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records and quash the First Information Report in Crime No.433 of 2021 on the file of the Deputy Superintendent of Police, Chennai - North, CSCID - Chennai.



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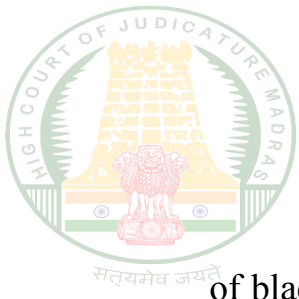
For Petitioner : Mr.M.Mathan Raj

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

ORDER

This petition has been filed to quash the FIR in Crime No.433 of 2021 on the file of the first respondent, registered for the offences punishable under Section 3(1) of Solvent Raffinate and Slop (Acquisition, Sale, Storage and Prevention of use in Automobiles) Order 2000 and Section 7(1)(a)(ii) of Essential Commodities Act, 1955.

2. The case of the prosecution, as per FIR, is that on 22.11.2021 at around 13:45 hrs, based on the secret information, the police found four persons near a shed in Pattaravakkam with an Ashok Leyland tanker bearing Regsitration No.TN 09 Z 7155 and a TATA Ace vehicle bearing registration No.TN 18 AS 8562. On seeing police, one person escaped while three were apprehended. The accused were unloading 8,000 liters



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of black oil into an underground tank and had already loaded 1,000 liters in barrels into the TATA Ace. In the presence of police, one of the accused confessed that he had been adulterating and selling oil in the black market, and also stating that the petitioner was involved in the illegal activity. Three liters were taken as samples and the rest was seized. Based on this, a case has been registered in Crime No.433 of 2021 for the offences punishable under Section 3(1) of Solvent Raffinate and Slop (Acquisition, Sale, Storage and Prevention of use in Automobiles) Order 2000 and Section 7(1)(a)(ii) of Essential Commodities Act, 1955.

3. The learned counsel for the petitioner submitted that the total quantity of the alleged substance seized from the place of occurrence is 8,000 liters i.e., 8 Kiloliters. Therefore, as per Section 3(1) of the Solvent Raffinate and Slop (Acquisition, Sale, Storage and Prevention of Use in Automobiles) Order, 2000, no license is required for such quantity. The relevant provision reads as follows:

“Provided that no such license shall be required for consumption of 50 kilo liters per month or less and stock at a given time of 20 kilo liters or less of solvents listed in the



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Schedule combined.”

4. It is further submitted that the first respondent has failed to comply with the mandatory procedure laid down under Section 5(2) and 5(5) of the Solvent Raffinate and Slop (Acquisition, Sale, Storage and Prevention of Use in Automobiles) Order, 2000, which prescribes the method for proper sampling of the product. The relevant provisions are extracted below:

“(2) The officer authorized in Clause 4 shall take, sign and seal three samples of 750 ml to 1 litre each of the product, one to be given to the concerned person under acknowledgment with instructions to preserve the sample in his safe custody till the testing and investigations are complete, the second sample shall to be kept by the concerned oil company or Depaatment and the third to be used for laboratory analysis.

(5) The authorized officer shall send the third sample of the product taken under sub-clause (2), within a period of ten days, to any of the laboratories specified in Schedule III of the Moto Spirit and High Speed Diesel (Regulation of Supply and Distribution and Prevention of Malpractices) Order, 1988 for the purpose of analysis of samples to check the product.”



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The learned counsel for the petitioner, therefore, contends that the non-compliance with these mandatory provisions vitiates the entire process of seizure and sampling, and no inference can be drawn against the petitioner in the absence of proper procedure being followed. Hence, he prays to quash the FIR.

5. The learned Government Advocate (crl.side) submitted that the petitioner was found storing black oil illegally without a valid license, thereby violating the Solvent Raffinate and Slop (Acquisition, Sale, Storage and Prevention of use in Automobiles) Order 2000. The claimed quantity (8 KL) does not qualify for exemption, as the storage was unauthorized and intended for unlawful sale. He further submitted that the sampling was done as per Section 5(2) of the Solvent Raffinate and Slop (Acquisition, Sale, Storage and Prevention of use in Automobiles) Order 2000, and the case is currently awaiting the lab report. That apart the act endangers public safety and attracts Section 7(1)(a)(ii) of the Essential Commodities Act. Hence, he prays for the dismissal of this petition.



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

7. 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. That apart, the matter involves serious allegations of illegal storage and adulteration of petroleum products. It also observed that the investigation is ongoing and the lab report is awaited, hence the FIR cannot be quashed at this stage. 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. The investigation machinery must be allowed to proceed in accordance with law to unearth the truth and bring the guilty to book.

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 Pokarnekar vs. The State of Maharashtra & ors., (Crl.A.No.255 of 2019*** dated **12.02.2019**) held that the learned Magistrate while taking



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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.

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 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*



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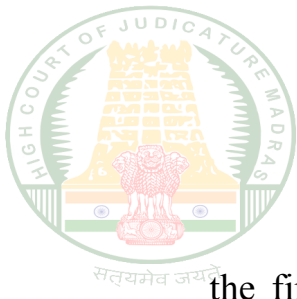
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FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, 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 in Crime No.433 of 2021. However,



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the first respondent is directed to complete the investigation in Crime No.433 of 2021 and file the final report within a period of two 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.

02.04.2025

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

To

1. Deputy Superintendent of Police,
Chennai North,
CSCID - Chennai.

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Madras High Court.

G.K.ILANTHIRAIYAN, J.

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