

Crl.OP.No.7690 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.7690 of 2023

and

Crl.MP.Nos.4935 of 2023

1. Arumugasamy
2. Eswari
3. Raghuram
4. Shankar

... Petitioners

Vs.

1. The State of Tamilnadu
Rep by the Inspector of Police,
CCB, Salem City.
Cr.No.5 of 2023
2. A.K.M.Senthil Kumar

... Respondents.

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in FIR No.5 of 2023 on the file of the first respondent and quash the same.

For Petitioners : Mr.Vijaya Kumar

For Respondents : Mr.A.Gopinath
Government Advocate (Crl.Side)
for R1
: Mr.K.Balasubramaniam for R2

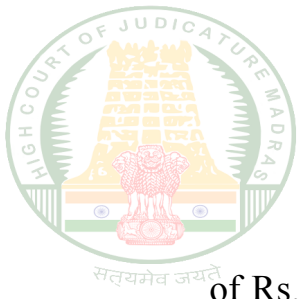
ORDER



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2. The case of the prosecution is that in the business transaction of supplying dress materials, the defacto complainant claimed a sum of Rs.21,46,446/- from the petitioners. Even after compulsion, the second respondent refused to supply the textile materials. When the same was questioned by the defacto complainant, the petitioners had threatened him with dire consequence. Therefore, there are specific allegations to attract the offence under Sections 420 and 406 of IPC. All the petitioners have induced the second respondent to supply the textile materials without even making any payment. It is not the case of the petitioners that the part payment paid and remaining payment is yet to be paid. If it is so, then the offence would not arise since there was no intention at the time of purchasing the materials to cheat the second respondent. But, it is seen that the petitioners induced the second respondent to supply textile materials without making any payment. The second respondent supplied the materials to the tune



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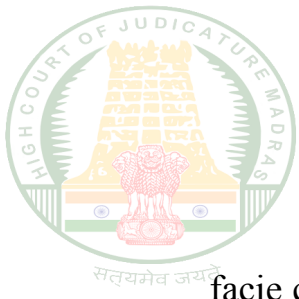
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of Rs.21,46,446/-. Therefore, the offence under Section 420 of IPC is clearly made out.

3. Heard both sides and perused the materials available on record.

4. This Court at the time of admitting the petition passed an interim order on 17.04.2023. Thereby, ordered that investigation and the filing of final report is to be deferred till next hearing. Thereafter, it was not extended. Pending this petition, the first respondent has completed the investigation and filed final report before the learned Judicial Magistrate-I, Salem and same is pending for taking cognizance. Therefore, quashment of FIR does not arise.

5. It is seen from the First Information Report that there are specific allegations as against the petitioner 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 its threshold. This Court finds that the FIR discloses prima



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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.

6. 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



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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 *prima facie* made out in the complaint, the criminal proceeding shall not be interdicted.

7. 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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“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 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*



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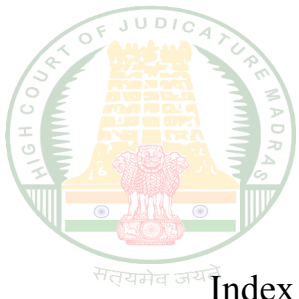
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exercises the power under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR; ”

8. In view of the above discussions, this Court is not inclined to quash the First Information Report, since the first respondent has completed the investigation and filed a final report before the learned Judicial Magistrate-I, Salem and same is pending for taking cognizance.

9. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

04.032025



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

To

1. The Judicial Magistrate-I, Salem
2. The Inspector of Police,
CCB, Salem City.
3. The Public Prosecutor,
Madras High Court,
Chennai.

G.K.ILANTHIRAIYAN, J.

Vv



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