



Crl.O.P.No.6752 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2025

CORAM:

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

Crl.O.P.No.6752 of 2025
and Crl.M.P.No.4306 of 2025

1. Arumuganadhen
2. Sivaprakash

... Petitioners

Vs

1. The State Rep.By,
The Inspector of Police,
RK Nagar Police Station,
Washermenpet District.
Cr.No.810/2023.

2. The Sub Inspector of Police,
RK Nagar Police Station,
Washermenpet,
Chennai - 600 021.

... 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 records in connection with Cr.No.810 of 2023 on the file of the Respondent and quash the same.

For Petitioners : M/s R.Raji
For Respondents : Mr.A.Gopinath
Government Advocate (Crl.side)

ORDER



CrI.O.P.No.6752 of 2025

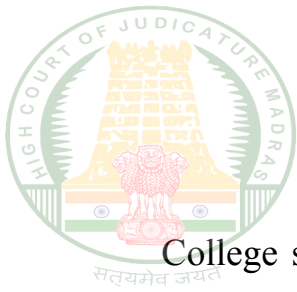
This Criminal Original Petition has been filed to quash the FIR in

Cr.No.810 of 2023 on the file of the Respondent Police.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The case of the prosecution is that on secret information the respondent Police went to the patrol near ECI School, EH road and found that the accused were selling banned tobacco products to youngsters. On seeing the respondent Police, the accused attempted to escape from the place of occurrence, but the respondent Police caught hold of the first petitioner and found that the first petitioner was in possession of 15 Hans Packets. Hence, the complaint has been registered in Crime No.810 of 2023, for the offences punishable under Sections 24(1) of COTPA Act read with Section 77 of The Juvenile Justice (Care and Protection of Children) Act, Sections 7 and 9(ii) of Tamil Nadu Prohibition of Smoking and Spitting Act, 2003 and Section 328 of IPC.

4. The learned counsel for the petitioners would submit that the first petitioner is the father of the second petitioner. The second petitioner is a



College student and he is no way connected to the business conducted by the first petitioner. Therefore, the petitioners have been falsely implicated in this case. Hence, he prays to quash the impugned FIR.

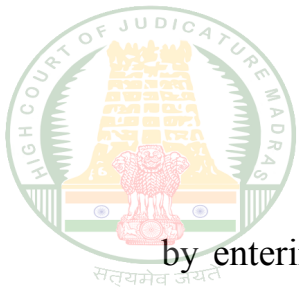
5. A perusal of the FIR revealed that there are specific allegations as against the petitioners and there is a recovery from the petitioners. Though the second petitioner is the son of the first petitioner, both the petitioners had involved in the business of selling tobacco products.

6. That apart, the grounds raised by the petitioners can be considered only before the Trial Court during the Trial. Now, it is in FIR stage. 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.



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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 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.

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 :-

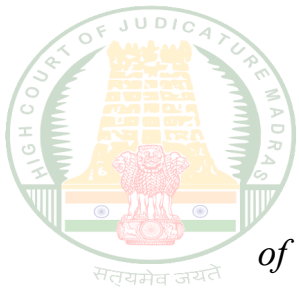
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vi) *Criminal proceedings ought not to be scuttled at the initial stage;*

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*



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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; ”

9. In view of the above discussions, this Court is not inclined to quash the First Information Report in Crime No.810 of 2023. The respondents are directed to complete the investigation in Crime No.810 of 2023 and file a final report, within a period of twelve weeks from the date of receipt of a copy of this order.

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



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Internet: Yes

Index: Yes/No

Speaking/Non speaking order

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G.K.ILANTHIRAIYAN. J.

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To

1. The Inspector of Police,
RK Nagar Police Station,
Washermenpet District.
Cr.No.810/2023.
2. The Sub Inspector of Police,
RK Nagar Police Station,
Washermenpet,
Chennai - 600 021.
3. The Public Prosecutor,
High Court, Madras.

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