



Crl.O.P.No.7312 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2025

CORAM:

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

Crl.O.P.No.7312 of 2024
and Crl.M.P.Nos.5292 & 11711 of 2024

1. Dr. Jecco Ani Babu
2. Dr. Babu N Jacob
3. Usha Babu
4. Jekha Mary Babu

... Petitioners

Vs.

1. The Inspector of Police,
All Women Police Stations,
Thirumangalam,
Chennai.

2. Monisha Jacob

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records pertaining to the FIR in Crime No.2 of 2024 registered under Section 406, 498(A) of Indian Penal Code, 1806 and Section 4 of Dowry Prohibition Act, 1961, on the file of the Inspector of Police, All Women's Police Station, Thirumangalam, Chennai and quash the same as against the petitioners/A1 to A4.



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Crl.O.P.No.7312 of 2024

For Petitioners : Mr.A.Rajendra Kumar

For Respondents

For R1 : Mr.K.M.D.Muhilan
Government Advocate (Crl.Side)

For R2 : Mr.T.John Sathyan, Senior Counsel,
For Mr.C.Shyaamala

ORDER

This Criminal Original Petition has been filed to quash the FIR registered in Crime No.2 of 2024 on the file of the first respondent as against the petitioners/A1 to A4.

2. On the complaint lodged by the second respondent, the first respondent registered FIR in Crime No.2 of 2024 for the offences punishable under Sections 406, 498(A) of Indian Penal Code, 1806 and Section 4 of Dowry Prohibition Act, 1961, alleging that the first petitioner got married the second respondent on 16.09.2021 and all the engagement expenses and reception expenses at Chennai were borne by the second respondent's family members. The first petitioner as well as the second respondent are Doctors by professional. Till December, 2022, they lived in a separate rented house. Thereafter, in the month of January, 2023, the first petitioner moved to Kerala for his studies. After



Crl.O.P.No.7312 of 2024

completion of his studies, he had joined in a private hospital in Kottayam, Kerala. Though the second respondent also had appointment in the very same hospital, the first petitioner refused her to join in the hospital on the ground that the second respondent failed to provide dowry as demanded by the petitioners.

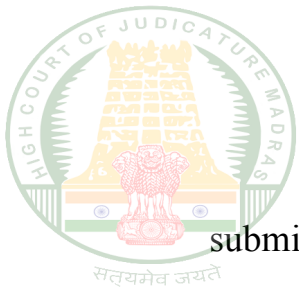
3. Further alleged that the petitioners demanded one crore rupees at the time of marriage through a marriage broker one Pappachan, who approached the second respondent's father for making payment of Rs.1,00,00,000/-. He further stated that after receiving dowry to the tune of Rs.1,00,00,000/-, the second accused assured him to pay 1% commission. Therefore, the father of the second respondent paid a sum of Rs.1,00,00,000/- through installments to the said Pappachan, due to his repeated demands. Further, the third accused also apposed the second respondent taking the UK based exam to further her career since the second respondent failed to give further dowry. While shifting the residence to Kerala, the petitioners had demanded all electrical items to set up new house. The first petitioner also had demanded a car as dowry, in spite of he owned four cars.



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4. Thereafter, the second respondent also came to understand that first accused was in the habit of consuming drugs, which was supplied to him by his girl friend viz., the fifth accused herein to whom the first accused lived before marriage. They had relationship and continued after their marriage with the second respondent. The first petitioner was regularly smoking and also using drugs. When the second respondent caught him red handedly, the first petitioner had shown his rude behavior and insisted her to give company. It was informed to their marriage counselor about his drug abuse. These habits were suppressed at the time of marriage to the family members of the second respondent. Therefore, all the petitioners tortured the second respondent to the core and they were driven out her from the matrimonial home. Hence the complaint.

5. The learned counsel appearing for the petitioners submitted that the first petition is a Cardiothoracic Surgeon and presently working as Doctor in Caritas Hospital, Kottayam. The second respondent is also a Doctor and as such their marriage was arranged one and their marriage was solemnized on 16.09.2021. The marriage and reception were held at Chennai and the entire expenses incurred by the petitioners. He further



Crl.O.P.No.7312 of 2024

submitted that after the marriage, the first petitioner had come to knowledge about the love of the second respondent with her ex-boyfriend. Therefore, it was questioned by the first petitioner and the second respondent confessed that she had intimate relationship with her ex-boyfriend and she was not happy with the first petitioner. Apart from her adultery behavior, she also used to consume alcohol and create whimsical issue which led to further discord in the marital life between the first petitioner and the second respondent. Therefore, there was discomfort to live together by the first petitioner and the second respondent. The second respondent voluntarily went away from the matrimonial house. Therefore, first petitioner filed divorce petition in I.D.O.P.No.12 of 2024 before the VI Family Court, Chennai. The Family Court issued notice to the second respondent for her presence on 26.02.2024. On receipt of the said notice, the second respondent immediately lodged false complaint with imaginary allegations as against all the family members. The first respondent without even conducting any preliminary enquiry all of a sudden, registered the FIR in Crime No.2 of 2024. There is no specific allegations as against the petitioners to attract any of the offence as alleged by the second respondent.



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5.1. He also filed an affidavit of one Pappachan, who allegedly received brokerage of 1% from the total dowry of Rs.1,00,00,000/- from the father of the second respondent, stating that he never received any amount from the father of the second respondent as commission and the entire allegations are false. There was no dowry demand from the petitioners during the marriage between the first petitioner and the second respondent. It was arranged one.

5.2. He further submitted that the petitioners are having four cars and two of which are not in use. There is absolutely no circumstances to demand any more car from the second respondent family. Further the complaint was not referred to the District Social Welfare Officer before registering the FIR. In fact, after registration of FIR, enquiry was conducted by the District Social Welfare Officer and it is pending. In support of his contention he relied upon several judgement of this Court as well as the Hon'ble Supreme Court of India.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.



Crl.O.P.No.7312 of 2024

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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 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



Crl.O.P.No.7312 of 2024

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 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



Crl.O.P.No.7312 of 2024

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;*

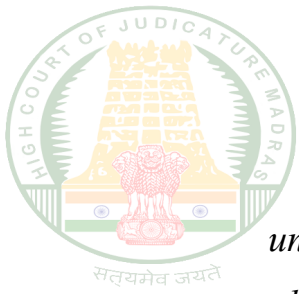
vii) *Quashing of a complaint/FIR should be an exception rather than an ordinary rule;*

.....

xii) *The first information report is not an 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*



Crl.O.P.No.7312 of 2024

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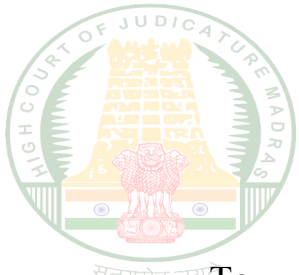
under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating 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. However, considering the nature of the crime, the fourth respondent is directed to complete the investigation in Crime No.2 of 2024 and file a final report within a period of twelve weeks from the date of receipt of a copy of this Order, before the jurisdiction Magistrate, if not already filed.

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

05.03.2025

Neutral citation : Yes/No
Speaking/non-speaking order
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Crl.O.P.No.7312 of 2024

To
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1.The Inspector of Police,
All Women Police Stations,
Thirumangalam,
Chennai.

2. The Public Prosecutor,
Madras High Court,
Chennai.



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Crl.O.P.No.7312 of 2024

G.K.ILANTHIRAIYAN, J.

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