



Crl.O.P.No.8819 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2025

CORAM:

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

Crl.O.P.No. 8819 of 2025

and

Crl.M.P No.5818 of 2025

1.K.Venkatesan
2.Rasool Beevi

.... Petitioners

.Vs.

1.The Inspector of Police,
St. Thomas Mount Police Station,
St. Thomas Mount
Chennai.

2.Vasanthi

.... 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 FIR No.33 of 2025 on the file of the 1st respondent the Inspector of Police, St. Thomas Mount Police Station, St. Thomas Mount.

For Petitioners : Mr.N.A.Nissar Ahamed
Senior Counsel

For R1 : Mr.A.Gopinath
Government Advocate (Crl.Side)

ORDER



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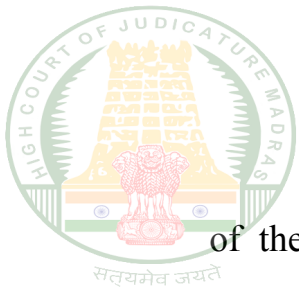
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This Criminal Original Petition has been filed seeking to quash the FIR registered in Crime No.33 of 2025 on the file of the first respondent, for the offences under Sections 191(2), 191(3), 329(4), 324(4), 305(a), 351(3) and 190 of the Bharatiya Nyaya Sanhita, 2023.

2. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl.Side) appearing for the first respondent. Perused the material available on record.

3. The petitioners have been arrayed as A1 and A2 in Crime No.33 of 2025 for the offences under Sections 191(2), 191(3), 329(4), 324(4), 305(a), 351(3) and 190 of the Bharatiya Nyaya Sanhita, 2023. It is alleged that the petitioners trespassed into the property by breaking open the lock, caused damages to the entire house, disconnected the electricity service connection and committed theft of household articles, original documents and furnitures. Hence, the present complaint.

4. The learned Senior Counsel appearing for the petitioners submitted that the present criminal case arises out of a civil dispute, for which a partition suit was already filed in O.S.No.199 of 2012 on the file



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of the Subordinate Judge, Tmbaram. The said suit was decreed by

Judgment dated 15.07.2013, thereby 4/7th share was allotted in favour of the petitioner. Now, the final decree proceedings also initiated and it is pending. Therefore, in order to escape from the execution of the decree, a false case has been foisted as against the petitioners.

5. A perusal of the records reveals that the petitioners trespassed into the property which is in possession and enjoyment of the second respondent herein, caused damage to the house and also committed theft of certain household articles. Therefore, it has to be investigated in depth.

6. 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



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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



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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.

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 :-

“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*



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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 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. However, the first respondent is directed to complete the investigation in Crime No.33 of 2025 and file a final report within a period of twelve weeks from the date



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of receipt of copy of this Order, before the jurisdiction Magistrate, if not

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

25.03.2025

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

1. The Inspector of Police,
St. Thomas Mount Police Station,
St. Thomas Mount
Chennai.

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

G.K.ILANTHIRAIYAN, J.

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