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CrI.O.P.No.7737 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2025

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.7737 of 2025

and

CrI.M.P.No.5008 of 2025

1. Renukadevi
2. Sulochanna
3. Srikanth

... Petitioners

Versus

- 1.State Rep. By,
The Inspector of Police,
AWPS Gudiyatham Police Station,
Vellore District..
(Crime No.21 of 2024)

2. Saranya

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records relating to the First Information Report registered in Crime No21 of 2024 on the file of the first respondent and quash the same.

For Petitioners : Mr. S. Silambuselvan

For Respondents : Mr. A. Gopinath, (for R1)
Government Advocate (Criminal Side)

ORDER



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This petition has been filed to quash the F.I.R. in Crime No.21 of

2024 registered by the first respondent police for offences under Sections 85, 296(b) and 115(2) of the Indian Penal Code, (IPC) 1860, and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002.

2. The case of the prosecution is that the defacto complainant/second respondent lodged a complaint on 02.07.2024 stating that after her first husband's death, she married one Mr.Shivashankar and had a two-year old daughter. The first petitioner is the mother of the said Mr. Shivashankar. The third petitioner is the husband of the second petitioner. The allegation is that at the instigation of the second and third petitioners, the first petitioner harrassed the second respondent, questioning her about the jewellery givn in her marriage. The second respondent/defacto complainant pointed out that a similar complaint was filed before the first respondent in the year 2022 – 2023, which was later compromised. However, on 30.06.2024, the first petitioner allegedly abused the defacto complainant using filthy language regarding the jewelry issue. Furthermore, on 01.07.2024 at around 07:30 A.M., while the defacto complainant was buying milk, the first petitioner allegedly assaulted her with her hands and scolded her in abusive language, demanding jewellery. Hence, the present complaint was lodged by he defacto complainant on 02.07.2024 as

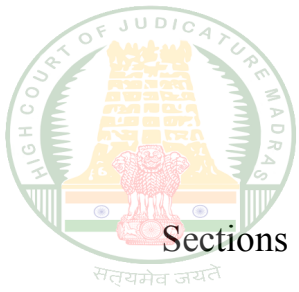


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against these petitioners.

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3. The learned counsel for the petitioner submitted that initially, the first petitioner made representations before the RDO on various dates 11.08.2023, 11.10.2023 and 13.10.2023. Based on the complaint, an elaborate inquiry was conducted by the Investigation Officer, Gudiyatham, and orders were passed on 20.10.2023. Pursuant to the RDO's order, all the money and jewels were returned to the first petitioner and also directed the defacto complainant and her husband, to allow the first petitioner to reside in their house, which was also confirmed by the appellate authority. Thereafter, the first petitioner had lodged a complaint against the second respondent/defacto complainant and her husband, on the ground that they were harassing the first petitioner, which was registered in Crime No.666 of 2023 for the offences under Sections 294(b), 323 and 506(i) of the IPC., and the same is pending on the file of the Inspector of Police, Gudiyatham. Thereafter, the second respondent/defacto complainant had lodged the present First Information Report in Crime No.21 of 2024. Further, he submitted that it is evident from the above that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered the said case in Crime No.21 of 2024, for the offences under



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Sections 85, 296(b) and 115(2) of the Indian Penal Code, (IPC) 1860, and

Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002, as

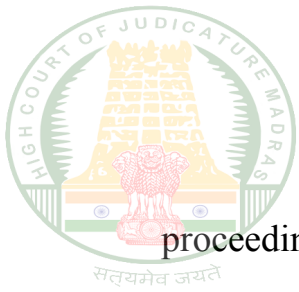
against the petitioners. Therefore, he prayed to quash the same.

4. The learned Government Advocate (Criminal side) appearing for the first respondent submitted that the investigation is almost completed and the respondent police have only to file a final report in this case.

5. Heard the learned counsel appearing on either side and perused the materials placed on record.

6. It is seen from the First Information Report that there are specific allegations as against these petitioners to attract the offences, 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 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.

7. Therefore, this Court does not find any reason to quash the



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proceedings, as per the law laid down by the Hon'ble Supreme Court of India, 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 :-

“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*



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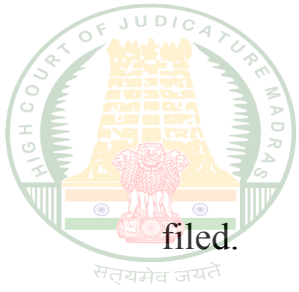
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to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate 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, considering the crime is of the year 2024, the first respondent is directed to complete the investigation in Crime No.21 of 2024 and file a final report within a period of 12 weeks from the date of receipt of copy of this order, before the jurisdiction Magistrate, if not already



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filed.

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10. With the above observations and direction, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is also closed.

17.03.2025

Index : Yes/No
Speaking order /Non-Speaking order
Neutral Case Citation: Yes/No

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To

1.The Inspector of Police,
AWPS Gudiyatham Police Station,
Vellore District.

2.The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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