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CrI.O.P.No. 8990 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2025

CORAM:

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

CrI.O.P.No.8990 of 2025 and
CrI.M.P.No.5962 of 2025

Vignesh

... Petitioner

Vs.

1.The State rep by
The Inspector of Police
R-9, Valasaravakkam Police Station,
Chennai District.
(Crime No.445 of 2019)

2.V.Shanmugarajeswaran

..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 First Information Report in Crime No.445 of 2019 as for as the petitioner concerned on the file of the respondent police.

For Petitioner : Mr.G.Pugazhenth

For R1 : Mr.A.Gopinath,
Government Advocate (crl.side)



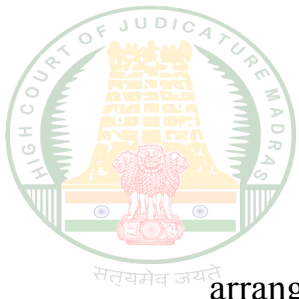
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ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.445 of 2019 on the file of first respondent, registered for the offences punishable under Sections 406, 420, 506(ii) and 34 of the IPC.

2. On the basis of the complaint lodged by the second respondent, the first respondent registered an FIR as against the petitioner in Crime No.445 of 2019 for the offences under Sections 406, 420, 506(ii) and 34 of the IPC alleging that the petitioner published an advertisement claiming to be involved in share market trading through a company named “Aram Tech Enterprises Commodity”, located in the Valasaravakkam area of Chennai. The advertisement stated that the petitioner would pay monthly interest to individuals who invested in the company. Believing the contents of the advertisement, the son and wife of the de-facto complainant invested Rs. 7,00,000/- and Rs. 5,00,000/- respectively. The petitioner allegedly agreed to pay Rs. 2,25,000/- per month as interest on the said investments. Written agreements were executed on 27.08.2018, 09.10.2018, and 05.11.2018 in support of this



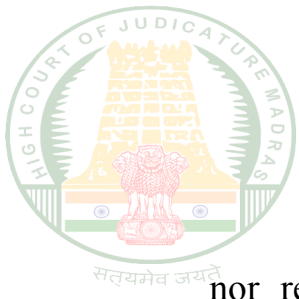
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arrangement. However, the petitioner failed to repay the agreed interest and is alleged to have cheated the investors. When the second respondent and his son visited the petitioner's office demanding repayment, the petitioner, along with his brother and father, allegedly threatened them.

3. The learned counsel for the petitioner submitted that the dispute is purely civil in nature arising out of business transactions and that no criminal offence is made out. He contended that Sections 406 and 420 of the IPC are not at all attracted in the present case and relied on the agreement entered between the parties. According to the learned counsel, the agreement reflects a mere business arrangement.

4. The learned Government Advocate (Criminal Side) submitted that the allegations in the complaint disclose a *prima facie* case for the offences under Sections 406 and 420 IPC. He further submitted that the petitioner had induced the de-facto complainant to invest a sum of Rs.12,00,000/- in the share market, promising a return of Rs.2,25,000/- per month as profit, but the petitioner had neither invested the amount



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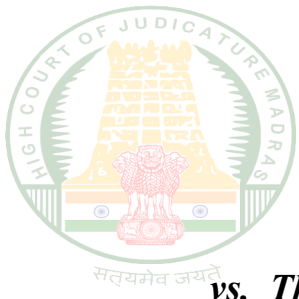
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nor returned the promised profits, thereby constituting cheating and criminal breach of trust.

5. Heard both sides and perused the materials placed before this Court.

6. This Court perused the agreement and the complaint. A perusal of the agreement reveals that the petitioner had induced the second respondent to invest a sum of Rs.12,00,000/- in the share market and agreed to pay a sum of Rs.2,25,000/- per month as return on the said investment. However, it appears that the petitioner failed to invest the said amount and also failed to pay any return to the second respondent. Therefore, this Court is of the view that the transaction in question is not a mere business or loan transaction, but involves elements of inducement and deception, which attract the ingredients of the offences under Sections 406 and 420 of the IPC.

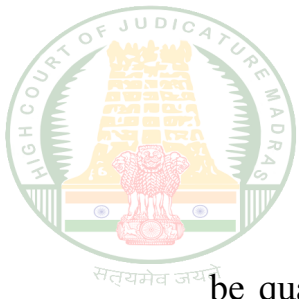
7. The Hon'ble Supreme Court of India, in the judgment reported in **2019 (14) SCC 350** in the case of ***Sau. Kamal Shivaji Pokarnekar***



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vs. The State of Maharashtra & ors., (Crl.A.No.255 of 2019 dated **12.02.2019**), held that while taking cognizance and issuing summons, the learned Magistrate is required to apply his judicial mind solely for the purpose of determining whether a *prima facie* case has been made out for summoning the accused. The learned Magistrate is not required to evaluate the merits of the materials or evidence at that stage. He is not to assess whether the materials would ultimately lead to a conviction. Only in cases where the complaint does not disclosed any offence, or is found to be frivolous, vexatious, or oppressive, can it be considered for quashing. If the allegations set out in the complaint doe not constitute the offence of which cognizance has been taken, it may be a ground for quashment. Therefore, it is not necessary to undertake a meticulous analysis of the case before trial to determine whether it would end in conviction or acquittal. If, on reading the complaint and considering the allegations in light of the alleged offence are disclosed, there would be no justification to interfere at that stage. At the initial stage of issuance of process, it is not open to the Court to stifle the proceedings by delving into the merits of the defence. Accordingly, a criminal complaint cannot



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be quashed merely on the ground that the allegations appear to be of a civil nature. If the ingredients of the offence alleged are *prima facie* made out, the criminal proceedings should not be interdicted..

8. Further, the Hon'ble Supreme Court of India, 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.***, issued directions 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*



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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. At this stage, this Court is not inclined to quash the FIR in Crime No.445 of 2019, as the allegations made in the complaint disclose the commission of cognizable offences and require investigation. However, considering that the FIR pertains to the year 2019, the first



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respondent is directed to complete the investigation in Crime No.445 of 2019 and file a final report before the jurisdictional Magistrate within a period of twelve (12) weeks from the date of receipt of a copy of this order, if the same has not already been filed. The petitioner is at liberty to produce all relevant documents during the course of investigation.

10. Accordingly, this Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petition is closed.

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Neutral citation : Yes/No
Speaking/non-speaking order
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1. The Inspector of Police
R-9, Valasaravakkam Police Station,
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2. The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN, J.

shk



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