



Crl.O.P.No.9259 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28.03.2025**

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.9259 of 2025

and

Crl.M.P.No.6151 of 2025

Saravanan

... Petitioner

Versus

1.The State Rep. by
Inspector of Police,
Vadavalli Police Station, Coimbatore.
(Crime No.861 of 2021)

2.Prakash

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records pertaining to F.I.R. No.861 of 2021 on the file of the 1st respondent Police and quash the same.

For Petitioner : Mr. T.K.S. Gandhi

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



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ORDER

This Criminal Original Petition has been filed to quash the First Information Report in Crime No.861 of 2021 registered by the first respondent police for offences under Sections 447, 294(b), 324 and 506(ii) of the Indian Penal Code, (IPC) 1860.

2. The case of the prosecution is that the defacto complainant and the petitioner are neighbours. The second respondent/defacto complainant is associated with a political party. On 18.12.2021, the defacto complainant pasted a wall poster on the petitioner's wall without permission, leading to a wordy quarrel. Later that night, the petitioner allegedly trespassed into the defacto complainant's house and attacked him and his father with weapons, causing severe injuries. The petitioner also threatened them with dire consequences.

3. Based on the complaint lodged by the second respondent/defacto complainant lodged a complaint, the first respondent police registered a case in Crime No.861 of 2021 for the alleged offences under Sections 447, 294(b), 324 and 506(ii) of IPC.



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4. The learned counsel for the petitioner submitted that though the First Information Report was registered in the year 2021, so far the first respondent has not completed the investigation and filed a final report. Further, he submitted that as per Section 514 of the Bharatiya Nagarik Suraksha Sanhita, (BNSS), 2023, for the offences with punishment not exceeding three years, the limitation for taking cognizance is three years. Therefore, the first respondent should have filed a final report within a period of three years from the registration of the First Information Report. Therefore, he prayed that the F.I.R is liable to be quashed on the ground of barred by limitation.

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



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

7. On perusal of the records shows that the petitioner attacked the defacto complainant and his father with a deadly weapon with criminal intent, which may attract Section 307 of IPC. At this juncture, this case is not barred by limitation.

8. It is seen from the First Information Report that there are specific allegations as against the petitioner to attract the offences, which has to be investigated in depth. Further the F.I.R is not an encyclopedia and it need not contain all facts and it cannot be quashed in its threshold. This Court finds that the F.I.R 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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9. 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



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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.

10. 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;*

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xii) The first information report is not an encyclopedia 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 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



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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;”

11. 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 2021, the first respondent is directed to complete the investigation in Crime No.861 of 2021 and file a final report within a period of eight weeks from the date of receipt of copy of this order, before the jurisdiction Magistrate, if not already filed.

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

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

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- To
- 1.The Inspector of Police,
Vadavalli Police Station, Coimbatore
(Crime No.861 of 2021)
 - 2.The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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