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Crl.O.P.No.8224 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2025

CORAM:

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

Crl.O.P.No.8224 of 2025
and Crl.M.P.No.5378 of 2025

E.Sasikala

... Petitioner

Vs

1.State Rep. By

The Inspector of Police,
Puzhal Police Station,
Kolathur Police District,
Chennai.

(Crime No.926 of 2024)

2. R.Santhi

... Respondents

Prayer : Criminal Original Petition has been filed under Section 528 of BNSS Act, 2023, pleaded to call for the records and quash the proceedings against the petitioner in Crime No.926 of 2024 dated 12.11.2024 pending on the file of 1st respondent police.

For Petitioner

: Mr.R.Rajan

For R1

: Mr.A.Gopinath

Government Advocate (Crl. Side)

For R2

: Mrs.R.Shanthi

Second respondent-in-person



Crl.O.P.No.8224 of 2025

WEB COPY

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.926 of 2024, pending on the file of the first respondent.

2. Heard both sides and perused the materials available on record.

3. The case of the prosecution is that the defacto complainant had sold her house and deposited the proceeds in a bank account for the purpose of funding her husband's medical treatment. The petitioner along with other accused who came to know about the same had approached the defacto complainant claiming that they were running a chit fund business and a large-scale diwali fund. They persuaded the defacto complainant to invest her money with them, assuring her that they would assist her with her husband's medical treatment. Believing their words, she had entrusted a sum of Rs.25 Lakhs to the accused and executed a document on a Rs.20/- stamp paper in this regard. Subsequently, the accused failed to return the said amount, thereby allegedly cheating the defacto complainant. Hence, the complaint.

4. On receipt of the complaint, the first respondent registered FIR



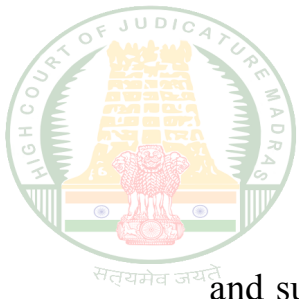
Crl.O.P.No.8224 of 2025

WEB COPY

in Crime No.926 of 2024 for the offences punishable under Sections 316(2) and 318(4) of BNS, 2023.

5. A perusal of FIR revealed that there are specific allegations to attract the above offences as against the petitioner. That apart, now, it is in FIR stage, 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.

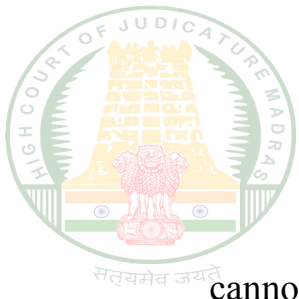
6. The Hon'ble Supreme Court of India passed in the judgment reported in **2019 (14) SCC 350** in the case of ***Sau. Kamal Shivaji Pokarnekar vs. The State of Maharashtra & ors., (Crl.A.No.255 of 2019 dated 12.02.2019)*** held that the learned Magistrate while taking cognizance



CrI.O.P.No.8224 of 2025

WEB COPY

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



CrI.O.P.No.8224 of 2025

WEB COPY

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.

7. 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. 7

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*



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CrI.O.P.No.8224 of 2025

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; ”

8. In view of the above discussions, this Court is not inclined to quash the First Information Report in Crime No.926 of 2024 on the file of the



Crl.O.P.No.8224 of 2025

WEB COPY

first respondent police. The first respondent is directed to complete the investigation in Crime No.926 of 2024 and file a final report, within a period of twelve weeks from the date of receipt of a copy of this order.

9. Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected Miscellaneous petition is closed.

20.03.2025

Index:Yes/No
Speaking Order: Yes/No
mn

To

1.The Inspector of Police,
Puzhal Police Station,
Kolathur Police District,
Chennai.

2.The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN,J.

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CrI.O.P.No.8224 of 2025

CrI.O.P.No.8224 of 2025

20.03.2025