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CrI.O.P.No. 9468 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2025

CORAM:

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

CrI.O.P.No.9468 of 2025

and

CrI.M.P.No.6259 of 2025

1.P.S.M.T.Hameed Nazrutheen

2.Khaja Nizammudeeen

3.Mohammed Niyas

... Petitioners

Vs.

1.The State,

Represented by its Inspector of Police,

Mambalam Police Station,

Chennai - 600 033.

Crime No.715 of 2021.

2. Syed Abdul Rahman

..Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in the FIR in Crime No.715 of 2021 on the file of the Inspector of Police, Mambalam Police Station, Chennai dated 30.10.2021 and quash the same.



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For Petitioners : Mr.Avinash Wadhwani

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

ORDER

This petition has been filed to quash the FIR in Crime No.715 of 2021 on the file of the first respondent, registered for the offences punishable under Sections 147, 341, 294(b), 324 and 506(2) of IPC.

2. The case of the prosecution, as per FIR, is that on 30.10.2021 at 11:00 hrs, during a Court-Ordered inspection at Kanchi Plaza, the second respondent was assaulted by the petitioners. They attacked him and his sons with an iron rod, thereby causing serious injuries. The second respondent was hospitalized. Based on his complaint, the first respondent police registered an FIR in Crime No. 715 of 2021 for the offences punishable under Sections 147, 341, 294(b), 324 and 506(2) of IPC.

3. The learned counsel for the petitioner submitted that no such



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occurrence took place as alleged by the second respondent. He relies on the Advocate Commissioner's report, which reveals that on 30.10.2021, during the Court-Ordered inspection, a quarrel broke out between the first petitioner and the second respondent, who are brothers. The altercation lasted for about 15 minutes, with both sides exchanging blows. Importantly, the report does not mention the involvement of the other petitioners in the scuffle. The learned counsel further submits that the contents of the FIR are not consistent with the Advocate Commissioner's report, and therefore, the allegations made in the FIR are exaggerated and not supported by the independent findings of the Commissioner. Hence, he prays to quash the FIR.

4. The learned Government Advocate (crl.side) submitted that the FIR was registered based on the complaint of the injured victim and discloses cognizable offences. The investigation is at a preliminary stage and involves serious allegations of assault. Hence, interference at this stage is not warranted.

5. Heard both sides and perused the materials placed on record.



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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



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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 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



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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 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*



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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 in Crime No.715 of 2021. However, the first respondent is directed to complete the investigation in Crime No.715 of 2021 and file the final report within a period of eight weeks from the date of receipt of copy of this Order, before the jurisdiction



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Magistrate, if not already filed.
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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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To

1. The Inspector of Police,

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Mambalam Police Station,
Chennai - 600 033.
Crime No.715 of 2021.

2.The Public Prosecutor,
Madras High Court.

G.K.ILANTHIRAIYAN, J.

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