



Crl. O.P. No. 9597 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 15.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl. O.P. No. 9597 of 2025

and

Crl. M.P. No. 6355 of 2025

A.M. Kaja Hussain

... Petitioner

Vs

1.State Represented by
The Inspector of Police,
Peelamedu Police Station,
Coimbatore City.

2.Dharmesh Mishra

.... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to call for the records of the FIR in Crime No.754 of 2023, dated 17.11.2023, pending on the file of the 1st respondent and to quash the same as far as the petitioner is concerned and thus render justice.

For Petitioner : Mr. R. Prabhakaran

For Respondents : Mr. R. Vinoth Raja, for R1
Government Advocate (Crl. Side)
Mr. Dharmesh Mishra (Party-in-person)



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ORDER

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This Criminal Original Petition has been filed to quash the FIR registered in Crime No.754 of 2023 on the file of the first respondent.

2. The case of the prosecution is that the second respondent lodged a complaint on 17.11.223 as against the petitioner and five others for the occurrence took place during December 2021. It is further submitted that the second respondent / defacto complainant is the Director of M/s.Colossus Tex Pvt., Ltd., at Faridabad, who are in the business of cotton yarn trade for a period of 4 years. On 24.12.2021, A1/Purushothaman initiated correspondence by email that he has a requirement for 12 metric ton of cotton yarn and informed that once the 2nd respondent meets his expectation, he will procure larger quantity of cotton yarn. After various rounds of negotiations, the final amount of Rs.495/- per kilogram inclusive of GST was fixed.

3. Based on the sales contract amount to Rs.62,37,000/- for procurement of 12,000 kilograms of NE 60/1 cotton combed compact weaving yarn. A1 issued purchase order No.504/2022 on 21.01.2022, thereby stipulating a settlement within the window of 5-7 days. Further, based on the purchase



order issued by A1, on 28.01.2022, the second respondent dispatched 6048

kilograms of cotton yar, valuing Rs.31,43,448/- for the agreed terms.

Subsequently A1 failed to honor the release the payment, subsequently attempts to receive payment elicited a rotating case of individuals answering A1's phone, including the petitioner and other accused who persisted in offering daily excuses. After strenuous follow up, a sum of Rs.10 lakhs was transferred by A1 via RTGS and there was an outstanding of Rs.21,43,448/-. Further a payment of Rs.1 lakh was received, leaving an outstanding of Rs.19,43,448/-. After continuous follow up, A1 issued a cheque for Rs.63,37,000/- in favour of second respondent and the same was returned as “insufficient funds”.

4. Further, it is stated that based on the complaint lodged by the second respondent on 17.11.2023, an FIR in Crime No.754 of 2023 was registered by the 1st respondent against the petitioner and others for offences under Sections 406, 420 and 506(ii) IPC.

5. Learned counsel for the petitioner would submit that it is purely commercial transaction between the first accused and the second respondent. As far as the petitioner is concerned, he is a sole accused and he is no way connected with the alleged transaction.



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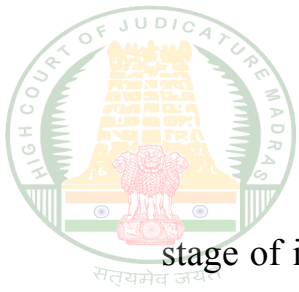
6. On perusal of the record, it is revealed that the petitioner involved in several types of cases and infact, this Court dismissed the quash petition in Crl.O.P.No.10636 of 2025. Modus operandi of the petitioner is that, he entered into a business transaction with the second respondent in the third person scheme. As per the said transaction, he cheated several persons as if he had business transaction with the second respondent. Therefore, the petitioner had committed very serious offence and cheated several persons. Hence, the offences under Sections 406, 420 and 506(ii) of IPC is clearly made out as against the petitioner.

7. It is seen from the First Information Report that there are specific allegations as against the petitioner to attract the offence, 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 the 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 into investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.



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8. 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 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.

9. 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 :-

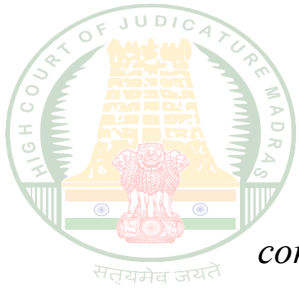
“23.

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*



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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;”

10. 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 2023, the first respondent is directed to complete the investigation in Crime No.754 of 2023 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 filed.



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10. Accordingly, this Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petition is closed.

15.04.2025

Index: Yes/No

Neutral Citation : Yes/No

AT

To

1. The Inspector of Police,
Peelamedu Police Station,
Coimbatore City.

2. The Public Prosecutor,
High Court, Madras.



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