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Crl.O.P.No.10013 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2025

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.10013 of 2025

and

Crl.MP.No.6632 of 2025

Senthamizhan

... Petitioner

Versus

1. The Inspector of Police,
Melmaruvathur Police Station,
Chegalpattu District.
(Crime No.283 of 2024)

2. Uma

... Respondents

PRAYER : Criminal Original Petition filed under Article 528 of BNSS, 2033, to call for the records from the first respondent police in Crime No.283 of 2024 and to quash the same insofar as the petitioner (A-4) is concerned.

For Petitioner : Mr. R. Thirumoorthy

For Respondents : Mr. R. Vinothraja,
Government Advocate (Crl. side)



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ORDER

This Criminal Original Petition has been filed to quash the F.I.R in Crime No.283 of 2024 pending on the file of the first respondent, insofar as the petitioner is concerned.

2. Based on the complaint lodged by the second respondent, the first respondent police registered a case in Crime No.283 of 2024 for the alleged offences under Sections 296(b), 115(2), 118(1) and 351(3) of the Bharatiya Nyaya Sanhita (BNS), 2023 and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002, and the investigation is pending. For the very same occurrence, a counter-complaint has also been filed, which was registered in Crime No.282 of 2024 for the alleged offences under Sections 296(b), 115(2), 118(1) and 351(3) of the Bharatiya Nyaya Sanhita (BNS), 2023 and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002, which is also pending investigation.



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3. The learned counsel for the petitioner submitted that the petitioner is arrayed as fourth accused in this case, but, claims that he was not at all present on the date of occurrence. Therefore, he prays to quash the F.I.R as against the petitioner.

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

5. Heard the learned counsel appearing on either side and perused the materials placed on record, including the First Information Report in Crime No.282 of 2024 and Crime No.283 of 2024.

6. Upon perusal of the records, it appears that the petitioner's complaint is a counter-complaint, and the entire investigation in both crime numbers is nearing completion. Furthermore, the ground raised by the petitioner that he was not present at the scene of occurrence cannot be considered as a ground for *alibi* at this stage.



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7. It is seen from the First Information Report that there are specific allegations as against these petitioners to attract the offences, 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.

8. Therefore, this Court does not find any reason to quash the proceedings, as per the law laid down by the Hon'ble Supreme Court of India, 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



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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 cannot be quashed only on the ground that the allegations made therein appear to be of a civil



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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 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*



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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



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the year 2024, the first respondent is directed to complete the investigation in both Crime Nos.282 and 283 of 2024 and file final reports, as per the guidelines of Police Standing Order 566, within a period of twelve (12) weeks from the date of receipt of copy of this order, before the jurisdiction Magistrate, if not already filed.

11. With the above observations and directions, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is also closed.

04.04.2025

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes : No

klt

To

1.The Inspector of Police,
Melmaruvathur Police Station,
Chegalpattu District. (Crime No.283 of 2024)

2.The Public Prosecutor, High Court, Madras.

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G.K.ILANTHIRAIYAN, J.

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