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Crl.O.P.No. 12243 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2025

CORAM:

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

Crl.O.P.No.12243 of 2025 and
Crl.M.P.No.8178 of 2025

1.Ganasekaran
2.Keerthi

... Petitioners

Vs.

1.The State rep by,
The Inspector of Police,
Thiruvarur Taluk Police Station,
Thiruvaru District.

2.Hajimaideen

..Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records and quash the further proceedings in Crime No.131 of 2024 pending on the file of the respondent Thiruvarur Taluk Police Station, Thiruvarur District.



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For Petitioners : Mr.P.Muthamizhselvakumar

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

ORDER

This petition has been filed to quash the FIR in Crime No.131 of 2024 on the file of the first respondent, registered for the offences punishable under Sections 147, 294(b), 324, 506(2) of IPC and Section 3 of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992.

2. The case of the prosecution, as per FIR, is that on 19.09.2023, the second respondent, was allegedly attacked at his residence in Vittal village by Thirugnanam (A1), his sons, and relatives following a land dispute. A1 allegedly beat the second respondent with a stick, causing injuries. When the second respondent's son Bakruddin and others, including the family members and neighbors, tried to intervene, they were also assaulted. The said A1 allegedly damaged the window of the



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second respondent's parked car before fleeing. All injured persons were admitted to Thiruvavarur Medical College Hospital. Based on the complaint, a case in Crime No. 131 of 2024 was registered for the offences punishable under Sections 147, 294(b), 324, 506(2) of IPC and Section 3 of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992.

3. The learned counsel for the petitioners submitted that the petitioners had also lodged a counter complaint in respect of the very same incident, which was registered as Crime No. 132 of 2024 for offences punishable under Sections 147, 294(b), 324, and 506(ii) IPC, read with Sections 3(1)(s) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. However, after investigation, the said FIR was closed as a "mistake of fact" without following the proper procedure laid down under Police Standing Order 566. It is contended that the petitioners are the actual victims, and the closure of thier complaint is arbitrary. Therefore, the petitioners prays to quash the FIR registered against them.



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4. The learned Government Advocate (crl.side) opposed the quash petition and submitted that the FIR in Crime No. 131 of 2024 contains specific and serious allegations as against the petitioners, including physical assault and property damage. The counter complaint filed by the petitioners was duly investigated, and after examination of the facts and statements, it was found to be a mistake of fact. The Investigating Officer had followed the procedure prescribed under Police Standing Order 566 and rightly concluded that the petitioners were the actual aggressor. Therefore, he prays for the dismissal of this petition.

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

6. On perusal of the FIR, it is seen that there are specific and serious allegations as against the petitioners which disclose cognizable offences warranting investigation. Though the petitioners lodged a counter complaint in Crime No. 132 of 2024, it was closed as a mistake of fact following due procedure as contemplated under Police Standing



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Order 566, as the investigation revealed that the petitioners were the actual aggressors. The issues raised are factual in nature and cannot be decided under Section 528 of BNSS. It is well settled that an FIR is not expected to be an encyclopaedia of facts. The FIR in the present case discloses a *prima facie* commission of cognizable offences. Hence, this Court is not inclined to quash the FIR at this stage. The investigation machinery must be allowed to proceed in accordance with law to unearth the truth and bring the guilty to book.

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 Magistrate is not required to evaluate the merits of the materials or evidence in support of the complaint, because the Magistrate must not



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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.



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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 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*



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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.131 of 2024. However, the first respondent is directed to complete the investigation in Crime No.131 of 2024 and file the final report within a period of two 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.

23.04.2025

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

To

1.The Inspector of Police,
Thiruvarur Taluk Police Station,
Thiruvaru District.

2. The Public Prosecutor,
High Court, Madras.



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