



Crl.O.P.No.9376 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2025

CORAM:

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

Crl.O.P.No. 9376 of 2025

and

Crl.M.P.No.6218 of 2025

M.Senthilkumar

.... Petitioner

Vs

1.State Rep. By
The Inspector of Police
District Crime Branch Police Station,
Tiruvallur District.
(Ref.Cr.No.68/2022 Dt.24.11.2022)

2.S.G.Premsekar
Branch Manager,
M/S.Equitas Small Finance Bank Ltd,
Villivakkam,
Chennai - 600 049.

.... 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 First Information Report bearing Crime No.68 of 2022 registered by the respondent police on 24th November 2022 for offences under Sections 409, 420 and 120B of Indian Penal Code.



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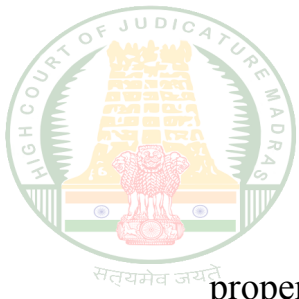
Crl.O.P.No.9376 of 2025

For Petitioner : Mr.M.Raja
For R1 : Mr.A.Gopinath
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed seeking to quash the FIR registered in Crime No.68 of 2022 on the file of the first respondent Police for the offences under Sections 409, 420 and 120B of IPC.

2. Based on the complaint lodged by the second respondent, the first respondent registered an FIR in Crime No.68 of 2022 for the offences under Sections 409,420 and 120B of Indian Penal Code. It is alleged that the accused 1 to 3 availed a loan to the tune of Rs.30 Lakhs by mortgaging the property comprised in Survey No.152/1A1, Patta No.872, to an extent of 25 cents. Thereafter, the accused 1 to 3 committed default in payment and as such, the loan account was declared as a non-performing asset. When the second respondent was about to initiate recovery proceedings against the mortgaged property, it was found that the said property, which had been mortgaged to secure the loan, was fabricated one and that no building actually existed on the



Crl.O.P.No.9376 of 2025

WEB COPY

property. It is further alleged that the accused 1 to 3 colluded with the accused 4 and 5, and fraudulently obtained the loan. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner has been arrayed as A4, at the relevant point of time, was serving as the Manager of the bank. He further submitted that the petitioner has no connection with the alleged fraudulent acts attributed to the other accused. The petitioner had sanctioned the loan to the accused 1 to 3 only after verification of the documents submitted by them.

4. However, a perusal of the records reveals that the petitioner while he was acting as a Manager of the bank, sanctioned the loan to the accused 1 to 3 without conducting any physical verification of the property mortgaged. That apart, the documents relating to the said property are alleged to have been fabricated. Therefore, there are specific and prima facie allegations against the petitioner attracting the ingredients of the offences under Sections 409, 420 and 120B of IPC.



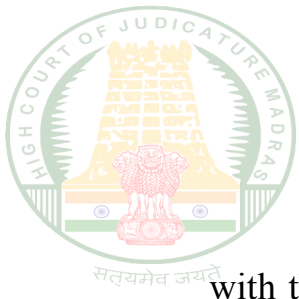
Crl.O.P.No.9376 of 2025

WEB COPY

5. Heard the learned Counsel appearing on either side and perused the materials placed on record.

6. 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 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.

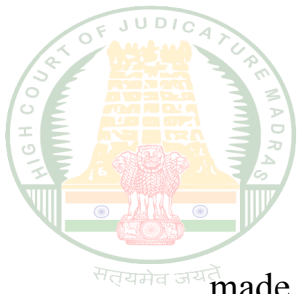
7. The Hon'ble Supreme Court of India passed in the judgment reported in **2019 (14) SCC 350** in the case of ***Sau. Kamal Shivaji Pokarnekhar vs. The State of Maharashtra & ors., (Crl.A.No.255 of 2019*** dated **12.02.2019**) held that the learned Magistrate while taking cognizance and summoning, is required to apply his judicial mind only



Crl.O.P.No.9376 of 2025

WEB COPY

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



Crl.O.P.No.9376 of 2025

WEB COPY

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.

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 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 conclusion based on hazy*



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Crl.O.P.No.9376 of 2025

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; ”

9. In view of the above discussions, this Court is not inclined to quash the FIR in Crime No.68 of 2022 on the file of the first respondent. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.



Crl.O.P.No.9376 of 2025

WEB COPY

27.03.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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To

1.District Crime Branch Police Station,
Tiruvallur District.

2.The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN, J.

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Crl.O.P.No.9376 of 2025

Crl.O.P.No.9376 of 2025

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