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Crl.O.P.No.9619 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2025

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.9619 of 2025

and

Crl.M.P.No.6361 of 2025

Pushpalatha

... Petitioner

Vs

1. The State rep. By
The Inspector of Police,
Kattur Police Station,
Coimbatore City,
Coimbatore District.
(Crime No.361 of 2023)

2. S.Saravanan

... Respondents

Criminal Original Petition is filed under Section 528 of B.N.N.S., to call for the records in Crime No.361 of 2023 dated 23.11.2023 on the file of the 1st Respondent Police and quash the same as against the petitioner.

For Petitioner : Mr.K.Sathish Kumar

For Respondents : Mr.A.Gopinath
Government Advocate (Crl.Side) (for R1)



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ORDER

This petition has been filed to quash the F.I.R. in Crime No.361 of 2023 registered by the first respondent police for offences under Sections 4(2)(c) and 5(1)(d) of the Immoral Traffic (Prevention) Act, 1956, as against the petitioner.

2. The case of the prosecution is that the de-facto complainant is the native of Nagapattinam and running a Petty Shop near Gandhipuram Central Bus Stand and staying in Gandhipuram 3rd Street. On the said day of occurrence, when the de-facto complainant went to Medical Shop seeking pills for body pain, the first accused, viz., Sujis, had told him that body pain would not get cured by pills and has taken him to The Grand Beauty Spa in Room No. 108, Kaaliappa Lodge, Opposite to Chennai Silks, Cross Cut Road. In that Lodge, the first accused had informed the second and third accused, who were his colleagues, to introduce the de-facto complainant to one Radha. When the said Radha approached the de-facto complainant for prostitution, the de-facto complainant left that Lodge by stating that he would bring money. Hence, the de-facto complainant made a complaint and



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FIR was lodged for the alleged offences under Sections 4(2)(c) and 5(1)(d) of the Immoral Traffic (Prevention) Act, 1956.

3. The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent person and she did not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.361 of 2023 for the offences under Sections 4(2)(c) and 5(1)(d) of the Immoral Traffic (Prevention) Act, 1956, as against the petitioner. Hence, he prayed to quash the same.

4. The learned Government Advocate (Criminal Side) would submit that the investigation is almost completed and the first respondent police is yet to final report.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent and perused the materials available on record.

6. It is seen from the First Information Report that there are



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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 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 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



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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 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 judgement reported in **2021 SCC Online SC 315** in the case of ***M/s.Neeharika Infrastructure Pvt. Ltd., Vs. State of Maharashtra & Ors.,***



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as follows :-

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“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 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*



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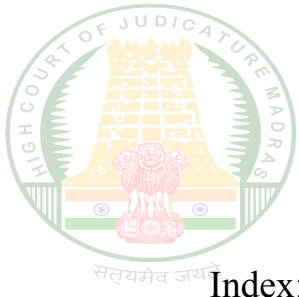
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by the alleged accused and the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits 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. However, considering the crime is of the year 2023, the first respondent is directed to complete the investigation in Crime No.361 of 2023 and file a final report within a period of two months from the date of receipt of a copy of this order, before the jurisdiction Magistrate, if not already filed.

10. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed.

01.04.2025



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Index: Yes/No

Neutral Citation/Yes/No
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To

1. The Inspector of Police,
Kattur Police Station,
Coimbatore City,
Coimbatore District.
2. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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