



Crl.O.P.No.10031 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.10031 of 2025

and

Crl.M.P.No.6639 of 2025

1.S. Rajendran
2.A. James Arockiyadass
3.Vanitha

... Petitioners

Versus

1.State rep. by,
The Inspector of Police,
Economic Offences Wing,
Ashok Nagar, Chennai.
(Crime No.18 of 2022)

2.A.K. Mohamed Ibrahim

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, (BNSS), 2025, to call for the records of the FIR in Crime No.18 of 2022, dated 26.08.2022 pending on the file of the first respondent and to quash the same.

For Petitioners : Mr. K. Balasubramaniam

For Respondents : Mr. R. Vinothraja, (for R1)
Government Advocate (Criminal Side)

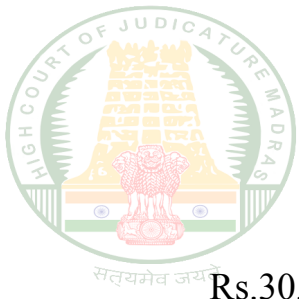
ORDER



Crl.O.P.No.10031 of 2025

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2. The brief facts of the case is that the defacto complainant who has been running a chicken shop for the past 25 years, is well acquainted with one Nithya Arulnathan, a relative of the first petitioner. The first petitioner operates a chit and finance company in the name and style of J.K. Chits Private Limited and J.K. Finance. Based on the assurance given by the said Nithya Arulnathan, the second respondent and his brother joined a chit of Rs.25 Lakhs with monthly subscription of Rs.1,25,000/- for 20 months, payable on daily basis after deducting of beat amount. The second respondent alleges that out of the total chit subscription amount of Rs.1,25,43,000/- a sum of Rs.65,65,000/- was sent to the three accounts of JK Chits Pvt. Ltd., and balance amount of Rs.59,89,000/- was given in cash without a receipt. The first petitioner transferred a sum of Rs.45,82,500/- and a sum of Rs.5,00,000/- totalling a sum of Rs.50,82,500/- through the bank. Additionally, a sum of



Crl.O.P.No.10031 of 2025

WEB COPY

Rs.30,00,000/- was received in cash from the first petitioner, leaving a balance of Rs.44,60,000/- to be paid by the petitioners. When the second respondent requested to return the balance sum of Rs.44,60,000/-, the petitioner's office failed to respond properly. Consequently, the second respondent visited the office of the first petitioner, only to find it locked. Through neighbours, he came to know that the petitioners were absconding. Hence, the complaint.

3. On receipt of the complaint, the first respondent registered a case in Crime No.18 of 2022 for the alleged offences under Sections 409, 420 and 120(B) of the Indian Penal Code, (IPC), 1860 and Section 4(1) read with Section 76(1) of the Chit Funds Act, 1982.

4. Learned counsel for the petitioners submitted that there is a civil dispute between the second respondent and the first petitioner and the entire allegations are civil in nature. Due to the previous animosity, the second respondent lodged a false complaint against the petitioners. A suit for declaration filed by the second respondent is pending before the District Judge, Trichirappalli, in O.S.No.47 of 2021, as against the



Crl.O.P.No.10031 of 2025

WEB COPY

petitioners. The charges levelled against the petitioners are not at all made out.

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

6. Heard the learned counsel appearing on either side and perused the materials placed on record.

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.



Crl.O.P.No.10031 of 2025

WEB COPY

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



Crl.O.P.No.10031 of 2025

WEB COPY

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;*

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Crl.O.P.No.10031 of 2025

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 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



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Crl.O.P.No.10031 of 2025

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 2022, the first respondent is directed to complete the investigation in Crime No.18 of 2022 and file a final report within a period of twelve weeks from the date of receipt of copy of this order, before the jurisdiction Magistrate, if not already filed.

11. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is also closed.

04.04.2025

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



Crl.O.P.No.10031 of 2025

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To

1. The District Judge, Trichirappalli.
2. The Inspector of Police,
Economic Offences Wing,
Ashok Nagar, Chennai.
(Crime No.18 of 2022)
3. The Public Prosecutor,
High Court, Madras.



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