



Crl.O.P.No.11118 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2025

CORAM:

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

Crl.O.P.No.11118 of 2025
and Crl.M.P.No.8594 of 2025

1. Tamilselvan
2. T.V.Vinothkumar

... Petitioners

Vs.

1. The State Rep by
The Inspector of Police,
B-7 Vellavedu Police Station,
Avadi City.
Crime No.139 of 2024.

2. K.N.Dhakshinamoorthy

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records pertaining to the respondent police in Crime No.139 of 2024 on the file of the learned Judicial Magistrate-II, Poonamallee and quash the same.

For Petitioners : Mr.P.Madan

For Respondents

For R1 : Mr.R.Vinothraja
Government Advocate (Crl.Side)



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ORDER

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This Criminal Original Petition has been filed to quash the FIR in Crime No.139 of 2024 on the file of the first respondent, registered for the offences punishable under Sections 448, 294(b), 324, 427 & 506(2) of IPC, as against the petitioners.

2. On the complaint lodged by the second respondent, the first respondent registered the FIR in Crime No.139 of 2024, alleging that on 15.01.2024, in the property owned by the second respondent, the accused persons came with JCB machine and completely demolished the compound wall and also CCTV cameras. When it was questioned by the Security, he was attacked by the accused persons with iron rod and as such he sustained injury. Hence the complaint.

3. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. A civil suit in O.S.No.103 of 2024 is pending between the parties, due to which the present false complaint has been foisted as against the petitioners. Hence he prayed to quash the same.



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4. The learned Additional Public Prosecutor would submit that the investigation is almost completed and the first respondent police is yet to file final report.

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

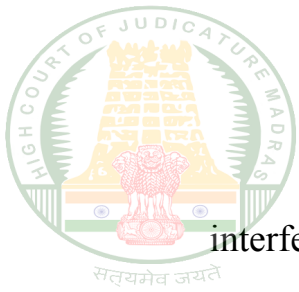
6. Though there is civil suit is pending in O.S.No.103 of 2024, the petitioners trespassed into the second respondent's property and committed the offence. It is seen from the First Information Report that there are specific allegations as against the petitioners to attract the offence, which has to 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.



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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 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



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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.

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*



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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 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 nature of the crime, the first respondent is directed to complete the investigation in Crime No.139 of 2024 and file a final report within a period of twelve



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weeks from the date of receipt of 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.

25.04.2025

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

rts

To

1. The Judicial Magistrate-II,
Poonamallee.

2. The Inspector of Police,
B-7 Vellavedu Police Station,
Avadi City.

3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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