



Crl.O.P.No.10983 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2025

CORAM:

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

Crl.O.P.No.10983 of 2025

and

Crl.M.P.No.7273 of 2025

1.K.Nepolean

2.Dayana

.... Petitioners

Vs

1.The State rep.by
The Inspector of Police,
W 15, AWPS, Royapuram,
Chennai 600 013
(Crime No. 04/2024)

2.N. Jenifer

.... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the entire records pertaining to the impugned FIR in Crime No. 04 of 2024 pending investigation on the file of the respondent police.

For Petitioners : Mr.S.Parthibarajan

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



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ORDER

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This Criminal Original Petition has been filed seeking to quash the FIR registered in Crime No.04 of 2024 on the file of the first respondent police for the offence under Section 498(A) of IPC.

2. The case of the prosecution is that the first petitioner, being the husband of the second respondent, who is residing at Singapore instead of directly providing financial support to the second respondent, give the same through his sister, viz., the second petitioner herein. It is further alleged that the first petitioner abused the second respondent, stating that if she required money, she should obtain it from his sister. It is alleged that the first petitioner purchased a house by selling the jewels belonging to the second respondent and subsequently, refused to return the said jewels and the 1st petitioner who got the second marriage. Hence, the complaint.

3. The learned counsel appearing for the petitioners submitted that there are no specific allegations as against the petitioners in order to attract the offence under Section 498A of IPC.



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4. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that the petitioner has already challenged the look out circular issued against him in W.P.No.11922 of 2025. This Court, by an order dated, 03.04.2025, directed the first respondent to complete the investigation and file a final report within a period of eight weeks from the date of receipt of a copy of the order. That apart, there are specific allegations as against the petitioners in order to attract the offence under Section 498A of IPC.

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



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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.



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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.

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*



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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 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.04 of 2024 on the file of the first respondent. Accordingly, this Criminal Original Petition stands



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dismissed. Consequently, connected miscellaneous petition is closed.

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

1.The Inspector of Police,
W 15, AWPS, Royapuram,
Chennai 600 013

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

G.K.ILANTHIRAIYAN, J.

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