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Crl.O.P.No. 10416 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2025

CORAM:

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

Crl.O.P.No. 10416 of 2025

and

Crl.M.P.No.6923 of 2025

A.M.Kaja Hussain

..... Petitioner

Vs

1.State rep by,
Inspector of Police,
Peelamedu Police Station,
Coimbatore City.

2.A.S.Kannan

..... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records of the FIR in Crime No.546 of 2023 dated 25.08.2023 pending on the file of the 1st respondent to quash the same as far as the petitioner is concerned .

For Petitioner : Mr.K.Balasubramaniam

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.546 of 2023 for the offences under Sections 406, 420, 120(b), 294(b) and 506(ii) of IPC.



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2. The case of the prosecution is that the second respondent is the proprietor of M/s.Sree Kumaran Yarns Pvt Ltd., and has been involved in the cotton yarn business. On 25.02.2022, A1 contacted the second respondent and informed him that he came to know about the company through the India Mart Webside. On 15.03.2022, the second respondent visited A1's company, Flavio Tex Innovations. After negotiation, the price was finalised. The second respondent provided a sample of cotton for testing. On 18.03.2022, A1 visited the second respondent's company, approved the quality of the sample and confirmed that they would proceed with the purchase of cotton yarn. On 24.03.2022, A1 sent a purchase order worth Rs.62,71,650/- by post, but the second respondent refused to supply goods based on the first order.

3. However, based on subsequent negotiations, on 04.04.2022, the second respondent delivered two loads of cotton yarn worth Rs.6,77,250/- to A2. As per the terms of the agreement, A1 transferred a sum of Rs.3,50,000/- via RTGS and there was an outstanding of Rs.3,22,250/-. Further, A1 issued various purchase orders to the second respondent between 09.04.2022 to 14.05.2022 for a total



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value of Rs.1,08,10,144. A1 remitted a sum of Rs.61,04,500/- via RTGS

to the second respondent on various dates between 13.04.2022 to 28.06.2022 and there was an outstanding of Rs.48,05,644/-.

Subsequently, A1 issued two cheques, each for Rs.15,00,000/-, totalling Rs.30,00,000/- in favour of the second respondent. However, when the second respondent presented the cheques for collection, they were returned unpaid with the endorsement 'Payment Stopped by Drawer'.

Hence, the complaint.

4. The learned counsel appearing for the petitioner would submit that the dispute arises out of a commercial transaction between the accused and the second respondent. He further submitted that part of the payment for the goods was made by the accused and for the remaining amount, the accused issued cheques. However, the said cheques were dishonoured with the endorsement “insufficient funds”. Though, the transaction is commercial in nature, the petitioner/accused knowingly issued cheques without maintaining sufficient funds in the account, thereby attracting the offences punishable under Section 406 and 420 of IPC.



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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 with the view to taking cognizance of the offence



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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 made therein appear to

be of a civil nature. If the ingredients of the offence alleged against the



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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 :-

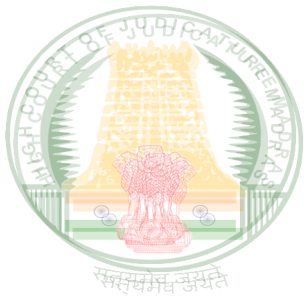
“23.

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 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*



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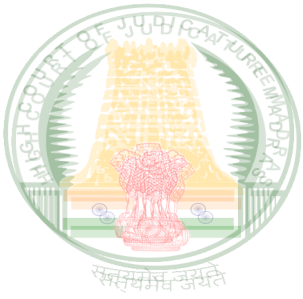
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the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;

.....

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, the first respondent is directed to complete the investigation in Crime No.546 of 2023 and file a final report within a period of eight weeks from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed.



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10. Accordingly, this Criminal Original Petition stands

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dismissed. Consequently, connected miscellaneous petition is closed.

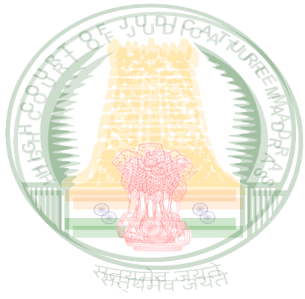
08.04.2025

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

To

1.The Inspector of Police,
Peelamedu Police Station,
Coimbatore City.

2.The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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