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CrI.O.P.No.9330 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2025

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.9330 of 2023

V.Srinivasa

... Petitioner

Vs

1. The Inspector of Police,
Mathikiri Police Station,
Kirshnakiri District.

2. B.Senthilkumar

... Respondents

Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records and quash the proceedings in Crime No.267 of 2022 pending on the file of the first respondent police.

For Petitioner : Mr.P.Muthamizh Selvakumar

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



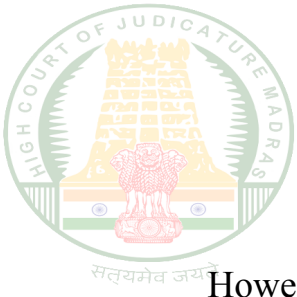
Crl.O.P.No.9330 of 2023

WEB COPY

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.267 of 2022 on the file of the first respondent, registered for the offences under Section 420 of IPC.

2. The case of the prosecution is that on 02.11.2022 at about 18 hours, the first respondent was in the station duty, received the written complaint from the second respondent/defacto complainant stating that the petitioner and the second respondent with others were working in the Southern Railways. The petitioner concern is a native of Hosur and he had much contact over the border village thereby, the second respondents and others have given amounts to the petitioner for purchasing land. Further, the second respondent has given Rs.43,00,000/- to the petitioner for arranging lands for him. After receipt of the amount, the petitioner has not arranged any land and dragged the same. When the second respondent and others demanded the amounts, the petitioner had transferred his land to the second respondent in 2015. Further, when the petitioner requested the second respondent and others to transfer the land back to him due to his financial situation, the second respondent transferred the land back to the petitioner.



Crl.O.P.No.9330 of 2023

WEB COPY

However, the petitioner, who took the entire sale consideration, had given only one lakh to the second respondent and others. Though the petitioner had returned certain other amounts to the second respondent, the petitioner had cheated Rs.22,18,000/- from the second respondent and others. Based on the complaint of the second respondent, case in Crime No.267 of 2022 was registered by the first respondent as against the petitioner.

3. The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.267 of 2022 for the offences under Section 420 of IPC, 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 respondent police have only to file final report.

5. Heard the learned counsel for the petitioner and the learned



Crl.O.P.No.9330 of 2023

WEB COPY

Government Advocate (Crl.Side) appearing for the first respondent 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 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 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



Crl.O.P.No.9330 of 2023

WEB COPY

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 accused are *prima facie* made out in the complaint, the criminal proceeding shall not be interdicted.



Crl.O.P.No.9330 of 2023

WEB COPY

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 the application made by the complainant, the investigating officer may file an appropriate report/summary*



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Crl.O.P.No.9330 of 2023

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 crime is of the year 2022, the first respondent is directed to complete the investigation in Crime No.267 of 2022 and file a final report within a period of three 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.



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CrI.O.P.No.9330 of 2023

07.04.2025

Index: Yes/No
Neutral Citation/Yes/No
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To

1. The Inspector of Police,
Mathikiri Police Station,
Krishnakiri District.
2. The Public Prosecutor,
High Court of Madras.



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Crl.O.P.No.9330 of 2023

G.K.ILANTHIRAIYAN, J.

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Crl.O.P.No.9330 of 2023

07.04.2025