



Crl.O.P.No.5 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2025

CORAM:

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

Crl.O.P.No.5 of 2025
and Crl.M.P.No.13 of 2025

Mohammed Kasim

... Petitioner

Vs.

1. The State rep by
The Inspector of Police,
D-4, Zam Bazaar Police Station,
Triplicane, Chennai – 600 005.
Crime No.21 of 2024

2. M.S.Govindarajan

... Respondents

Prayer: Criminal Original petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the entire records of the impugned F.I.R. in Crime No.21 of 2024 dated 01.03.2024, on the file of the first respondent police and quash the same.

For Petitioner	: Mr.Parthiban For M/s.A.Ilayaperumal
For Respondents	
For R1	: Mr.A.Gopinath Government Advocate (Crl. Side)
For R2	: Mr.T.Thiyagarajan



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ORDER

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This petition has been filed to quash the FIR in Crime No.21 of 2024 on the file of the first respondent police, registered for the offences punishable under Sections 420, 463, 464 & 465 of IPC, as against the petitioner.

2. The case of the prosecution is that the defacto complainant and his wife owned property situated at Door No.255/98, Bharati Road, Royapettai, Chennai. The said premises comprises of some shops in the ground floor and other two floors are used for residential purposes. Prior to their purchase, their vendor had let out one of the shops on monthly rent to one Shanthi Mohan and she was running a medical shop in the name of Shanthi Medicals. The petitioner was employed in the said medical shop on a monthly salary. After the defacto complainant's acquisition, the said Shanthi Mohan was paying monthly rent to the defacto complainant regularly. During 2005, the husband of the said Shanthi Mohan died and she was not in a position to take care of the business and she has agreed to transfer her rights in the business along with available stock in favour of the defacto complainant's wife, on condition that a sum of Rs.5,50,000/- has to be paid to her. Accordingly,

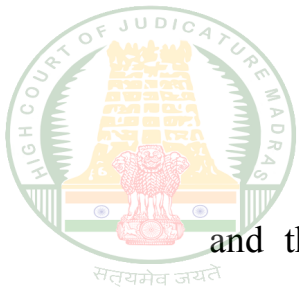


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the aforesaid sum was paid by the defacto complainant to Shanthi Mohan. Later the business and shop was rented out to one Basker and he became tenant under the defacto complainant. The said Basker has been running the medical shop and the petitioner continued to be employed as a salesman under Basker also. The said Basker trusted and believed the petitioner and taking advantage of the situation, the petitioner has fabricated and created a bogus rental agreement as if the defacto complainant and his wife have executed the same by forging and impersonating his signature and his wife signature. Based on the forged and fabricated rental agreement, the petitioner has also obtained drug license, GST and other documents in his name by fraudulent means with the government authorities. Hence, the case.

3. The learned counsel appearing for the petitioner submitted that the petitioner is a sole accused and he is a tenant under the second respondent, as per the rental agreement dated 02.08.2019. But all of a sudden, the second respondent demanded exorbitant amount as monthly rent, which the petitioner refused to pay. In fact, for non payment of arrears of rent, the second respondent sealed the premises, which was let out in favour of the petitioner. Therefore, the petitioner lodged complaint



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and the second respondent was directed to appear for enquiry. The second respondent did not even whisper about that the renal agreement is fabricated one by forging the signature of the second respondent and his wife. He also stated that the rent amount was not paid by the petitioner. Subsequently, the lock and seal was removed and the petitioner is running the medical shop. In fact, the license was issued in the name of the petitioner and with valid license he is running the medical shop. Therefore, the petitioner filed suit in O.S.No.3587 of 2022 before the XIX City Civil Court, Chennai, for permanent injunction as against the second respondent, without due process of law, the possession and enjoyment of the petitioner cannot be disturbed and it is pending. Therefore, the complaint itself after thought with intension to vacate the petitioner. Further the complaint has been foisted as against the petitioner as if, the petitioner fabricated the signature of the second respondent and his wife.

4. The second respondent appeared in person and submitted that he never executed any lease deed in favour of the petitioner. Originally some other tenant was there while the defacto complainant was purchasing the premises and the petitioner is being a salesman under



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one Basker, who is running medical shop, he entered into possession of the property. Thereafter, the petitioner forged the signature of the second respondent and his wife and fabricated the rental agreement. On the strength of the agreement, he obtained license in respect of the medial shop.

5. The learned Government Advocate (Crl. Side) appearing for the first respondent filed counter and submitted that the investigation is still pending and they enquired several witnesses by recording their statements. The first respondent about to complete the investigation and yet to file final report.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. The petitioner is a tenant in the premises owned by the second respondent. There was dispute between them regarding rent. Therefore, the second respondent locked and sealed the premises. Though the second respondent did not whisper about the fabrication of rental agreement at the time of giving statement before the first



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respondent on the complaint of lock and seal the premises, the second respondent make out the prima facie case to register the FIR constituting the offences punishable under Section 420, 463, 464 & 465 of IPC as against the petitioner.

6. Further 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 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



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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 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



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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 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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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.21 of 2024 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.



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WEB COPY 10. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

19.02.2025

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

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To

1. The Inspector of Police,
D-4, Zam Bazzar Police Station,
Triplicane, Chennai – 600 005.

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



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G.K.ILANTHIRAIYAN, J.

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