



Crl.O.P.No.12389 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2025

CORAM:

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

Crl.O.P.No.12389 of 2025 and
Crl.MP.No.8222 of 2025

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... Petitioner

Vs.

1.The State Rep. by
Inspector of Police,
Tambaram City CCB
Tambaram District
(crime No.19 of 2023)

2.Mary Anitha

... Respondents

PRAYER:

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the entire records pursuant to the FIR in Crime No.19 of 2023 on the file of the respondent and quash the same by allowing this Criminal Original Petition so far as petitioner is concerned.

For Petitioner : Mr.U.Sarath Kumar

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

For R2 : Mr.M.Ramamoorthy



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ORDER

This Criminal Original Petition has been filed seeking to quash the FIR registered in Crime No.19 of 2023 on the file of the first respondent police registered for the offences under Sections 120B, 408, 420, 506(i) of IPC.

2. The case of the prosecution is that the defacto complainant alleged that all the accused persons had held out a promise that they would induct her as a partner in the 5th accused partnership firm and as her capital, she was required to pitch in a substantial amount. Pursuant to this, a sum of Rs.1,57,62,500/- was transferred from the defacto complainant's bank account to the account of the accused. In total a sum of Rs.2,07,62,500/- was paid. Apart from the bank transactions, the accused had also executed promissory notes. However, despite the promise, the defacto complainant was not inducted as a partner in the firm. The money paid by her was also not returned to her. The entire dispute revolves around the business of purchasing fish from fishermen in and around Ramanthapuram and selling the same to companies involved in fish oil extraction.



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3. It is further stated that the 5th accused partnership firm

agreed to pay certain amounts directly to the defacto complainant, who was to deduct her commission and remit the balance to the 5th accused. According to the petitioner, a complicated arrangement and therefore, it was represented that the defacto complaint could be inducted as a partner in the 5th accused partnership firm. However, she was neither made a partner nor was the amount transferred by her through bank transactions or paid in cash returned to her. Hence, the complaint.

4. The learned counsel appearing for the petitioner would submit that the entire amount has been settled by the petitioner. However, it has not been confirmed by the learned counsel for the second respondent.

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 offences under Sections 120B, 408, 420, 506(i) of IPC, which has to be



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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 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



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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.

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 :-



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?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 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



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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.19 of 2023 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.

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

28.04.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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G.K.ILANTHIRAIYAN, J.
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To

1. Inspector of Police,
Tambaram City CCB
Tambaram District
2. The Public Prosecutor,
High Court of Madras

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