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Crl.O.P.No.11052 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.11052 of 2025

and

Crl.M.P.No.7294 of 2025

1. N.Murugesan

2. S.Hemachandraprasath

3. Lakshmi

... Petitioners

Vs.

1. State Rep by,
The Inspector of Police,
Gudimangalam Police Station,
Tiruppur District.

2. Mohan Raj

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to call for the records in Crime No.210 of 2024 on the file of the first respondent and quash the same insofar as against the petitioners.

For Petitioners : Mr.P.Saravana Sowmiyan

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



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ORDER

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This petition has been filed to quash the F.I.R. in Crime No.210 of 2024 registered by the first respondent police for offences under Sections 126(2), 296(b), 324(4), 115(2), 118(1) and 351(3) of BNS and Section 4 of TN Prohibition of Harassment of Women Act, as against the petitioners.

2. The case of the prosecution is that the defacto complainant is residing along with his family in Ramachandrapuram and doing agriculture; the coconut Thoppu to an extent of 1 acre 10 cents in SF No.338/1A belonging to his brother's wife, viz., K.Muthulakshmi, is situated near to Vetrivel Mill; the said land was sold in the year 2022 to the first accused, viz., Natarayasamy, by DRT, Coimbatore due to default in payment of loan; in the said Thoppu, the defacto complainant as well as his brother, viz., Kupputhurai, have right of pathway; right from the date of purchase, the first accused denied the right of pathway and interfered with the passage whenever they passed through the said Thoppu and a Civil case is also filed; on 08.07.2024 at about 7.30 a.m. when the defacto complainant was driving his jeep bearing No.TN 41 AF 5000 near Vetrivel Mill, the first accused blocked the jeep and damaged the same; the second and third accused pulled the defacto complainant out of the jeep



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and physically assaulted him; the first accused also assaulted one Lakshmi, Saraswathy, Rajkumar, Karthi and Ramakrishnan, who came to rescue the defacto complainant. Hence, the complaint was lodged by the defacto complainant.

3. The learned counsel for the petitioners would submit that there is a pathway dispute between the petitioners and the de-facto complainant. Therefore, no offence is made out against the petitioners. He would further submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.210 of 2024 for the offences under Sections 126(2), 296(b), 324(4), 115(2), 118(1) and 351(3) of BNS and Section 4 of TN Prohibition of Harassment of Women Act, as against the petitioners. Hence he prayed to quash the same.

4. The learned Government Advocate (Criminal Side) appearing for the first respondent, on instructions, states that there is a counter complaint lodged by the first petitioner and it has been registered in Crime No.211 of 2024 and it is pending. He further states that both the First Information Reports' investigation is completed and they are about to file final reports.



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



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



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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 before the learned Magistrate which may be considered by the learned Magistrate in accordance with the*



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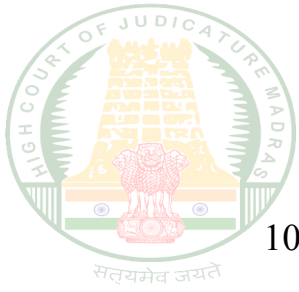
known procedure;

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.....

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 both the First Information Reports in Crime Nos.210 and 211 of 2024 by following the procedure laid down under the Police Standing Order 566 and to file final reports within a period of two months from the date of receipt of a copy of this order, before the jurisdictional Magistrate, if not already filed.



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10. Accordingly, this Criminal Original Petition stands dismissed.

WEB COPY Consequently, connected miscellaneous petition is closed.

15.04.2025

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

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To

1. The Inspector of Police,
Gudimangalam Police Station,
Tiruppur District.
2. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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