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CrI.O.P.No.14622 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2025

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.14622 of 2024

and

CrI.M.P.No.8931 of 2024

Rayappan

... Petitioner

Vs

State by

1. The Superintendent of Police,
Tiruvannamalai District,
Tiruvannamalai.
2. The Inspector of Police,
Thachampattu Police Station,
Thachampattu,
Tiruvannamalai Taluk & District.
(Cr.No.346 of 2023)

... Respondents

Criminal Original Petition is filed under Section 482 of Cr.P.C., to
A) grant stay of all further proceedings in Cr.No.346 of 2023 on the file of
the Inspector of Police, Thachampattu Police Station, Thachampattu,
Tiruvannamalai Taluk & District pending disposal of the above quash
petition B) call for the entire records concerned in Cr.No.346 of 2023 on the



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file of the Inspector of Police, Thachampattu Police Station, Thachampattu, Tiruvannamalai Taluk & District and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.C.Prakasam

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

ORDER

This petition has been filed to quash the entire proceedings in Crime. No.346 of 2023 on the file of the second respondent.

2. The case of the prosecution is that the petitioner acted as a Mediator between the de-facto complainant and the accused persons regarding the de-facto complainant's borrowed loan amount from the accused persons, A-1 and A-2, who are relatives. At that time, the de-facto complainant executed a power of attorney in favour of A-1 and in turn, A-1 executed a sale deed in favour of her son and others. In this connection, a quarrel arose between the de-facto complainant and the accused persons, since the petitioner acted as a Mediator, and the de-facto complainant's husband committed suicide in the village.



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2.1. Further, it is the case of the prosecution that previously the petitioner took a lease of the de-facto complainant's land and subsequently, as per the request made by the de-facto complainant's husband, that he was going to get a loan for a huge amount from the accused persons and cancelled the lease deed by enabling him to get a huge amount as a loan from A-1 and A-2. Accordingly, the petitioner cancelled the lease deed on 30.11.2017. After that, the de-facto complainant's husband approached A-1 and A-2 and borrowed Rs.3,65,500/- from them by executing a power of attorney in favour of A-1 and A-2. Subsequently, there was a quarrel between relatives and both of them approached the Village people. Since the petitioner is the elder of the said Village, he made an attempt to settle the issue among them, but A-1 and A-2 refused to cancel the sale deed and hence, the petitioner informed the de-facto complainant's husband to approach the Court or Police and openly stated that A-1 and A-2 would not come forward to settle the issue. Hence, the petitioner did not interfere with their dispute, but the de-facto complainant committed suicide. Even though the petitioner is from the Vanniya Christian Gounder community and the de-facto complainant and A-1 and A-2 are from the Scheduled Caste



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community, the petitioner is in no way connected with the de-facto complainant and A-1 and A-2's money transactions and the dispute arose between them, but unnecessarily, the petitioner's name has been implicated in the First Information Report and he is an aged man suffering from serious health issues.

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 second respondent police registered a case in Crime No.346 of 2023 for the offences under Sections 418, 306 r/w 511 IPC @ 418, 306 of IPC r/w Section 3(2)(V) of SCT/ST (POA) Act, as against the petitioner. Hence he prayed to quash the same.

4. The learned Government Advocate (Crl. Side) appearing for the respondents submits that he produced a dying declaration of the deceased, which reveals that the specific overt act as against the petitioner attracts the offences under Sections 418, 306 r/w 511 IPC @ 418, 306 of IPC r/w Section 3(2)(V) of SC/ST (POA) Act.



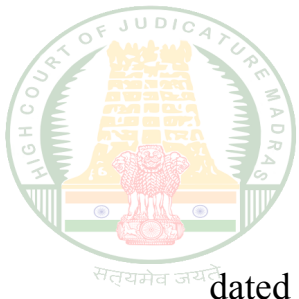
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5. Heard the learned Counsel appearing on either side and perused the materials placed on record.

6. It is seen from the First Information Report that there are specific allegations as against the petitioner to attract the offences under Sections 418, 306 r/w 511 IPC @ 418, 306 of IPC r/w Section 3(2)(V) of SCT/ST (POA) Act, which have 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.

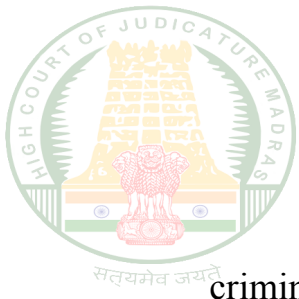
7. The Hon'ble Supreme Court of India passed in the judgment reported in **2019 (14) SCC 350** in the case of ***Sau. Kamal Shivaji Pokarnekar vs. The State of Maharashtra & ors., (Crl.A.No.255 of 2019***



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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 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



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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 :-

“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*



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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 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 second respondent is directed to complete the investigation in Crime No.346 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.



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10. Accordingly, this Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Neutral Citation/Yes/No

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To

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Tiruvannamalai District,
Tiruvannamalai.
2. The Inspector of Police,
Thachampattu Police Station,
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G.K.ILANTHIRAIYAN, J.

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