



Crl. O.P. No. 15773 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 13.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl. O.P. No. 15773 of 2023
and Crl. M. P. Nos. 9834 & 17501 of 2023

P. Sathiyamurthy

... Petitioner

Vs

1. The Inspector of Police (Crime),
J-5, Sasthri Nagar Police Station,
Chennai – 600 090.

2. P. Manivannan

... Respondents

PRAYER: The Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records in Crime No.45 of 2023 pending on the file of the first respondent and quash the same.

For Petitioner : Mr.N.Saravanan

For Respondent : Mr.A.Gopinath
Government Advocate (Crl. Side)
for Respondent No.1

Mr.S.Kanniah for Respondent No.2

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.45 of 2023 on the file of the first respondent.



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2. On the complaint lodged by the second respondent, the first respondent registered the FIR in Crime No.45 of 2023 for the offences punishable under Sections 448, 406, 420, 468, 471 r/w 34 of IPC, alleging that the second respondent and his wife had jointly purchased a Flat No.F4, 2nd Floor, Alraza Prime Rose Apartments, No.51, Ellaiamman Koil Street, Vannandurai, Adyar, Chennai registered by document No.1381 of 2020. Thereafter, the petitioner entered into an agreement for lease from 22.05.2021 to 21.05.2022. Even after expiry of the lease period, the tenant refused to vacate the premises even after issuance of notice.

3. The petitioner illegally occupied the premises by trespassing into his property and also with intention to grab the property, the petitioner threatened second respondent with dire consequences. Thereafter, the second respondent came to understand that by the same *modus operandi*, the petitioner and first accused cheated several house owners and grabbed their properties.

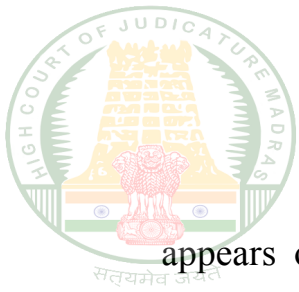
4. Therefore, there are specific allegations as against the petitioner to attract the offences under Sections 448, 406, 420, 468, 471 r/w 34 of IPC.



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Therefore, this Court finds no ground to quash the FIR registered in Crime No.45 of 2023.

5. 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 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 not 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.

6. 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 :-

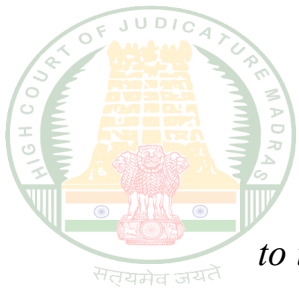
“23.

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*



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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 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;”

7. 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 2023, the first respondent is directed to complete the investigation in



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Crime No.45 of 2023 and file a final report within a period of 12 weeks from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed.

8. Accordingly, this Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petitions are closed.

13.03.2025

Index:Yes/No

Neutral Citation :Yes/No

AT

To

1. The Inspector of Police (Crime),
J-5, Sasthri Nagar Police Station,
Chennai – 600 090.

2.The Public Prosecutor,
High Court, Madras.



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