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Crl.O.P.No.15651 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2025

CORAM:

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

Crl.O.P.No.15651 of 2023
and Crl.M.P.No.9747 of 2023

Sheila

... Petitioner

Vs.

1. The State Rep. by
The Inspector of Police,
Central Crime Branch-I,
CCB Team-I, Chennai.
(Crime No.181 of 2022)

2. E.V.P.Santhosa Reddy

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C., to call for records in FIR in Crime No.181 of 2022 pending on the file of the first respondent the Inspector of Police, Central Crime Branch-I, CCB Team-I, Chennai and quash the same in respect of the petitioner.

For Petitioner	: Mr.K.Balu For Mr.K.M.Balaji
For Respondents	
For R1	: Mr.R.Vinothraja Government Advocate (Crl. Side)
For R2	: Mr.S.Manivasagam



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ORDER

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This Criminal Original Petition has been filed to quash the FIR in Crime No.181 of 2022, pending on the file of the first respondent police, registered for the offence under Sections 406, 420 & 34 of IPC.

2. On the complaint lodged by the second respondent, the first respondent registered the FIR in Crime No.181 of 2022, on the allegations that the second respondent and the petitioner are the husband and wife and their marriage was solemnized on 20.02.2020. They lived together for very limited period and thereafter due to misunderstanding they got separated. While being so, immediately after their marriage, they wanted to purchase an immovable property jointly and entered into agreement. The petitioner intended to purchase a Villa at Film Nagar, Shaikpet Village, Hyderabad and entered into an agreement for sale dated 04.07.2020. In pursuant to the agreement, the petitioner and the second respondent jointly applied for loan on 06.08.2020. However the said application was not sanctioned. Meanwhile, the petitioner had fraudulently transferred a sum of Rs.1,84,00,000/- from the second respondent's account to her personal account without the knowledge of the second respondent. Hence the complaint.



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3. The learned counsel appearing for the petitioner submitted

that both the second respondent and the petitioner are husband and wife and there was a family dispute between them due to which they got separated. In order to wreak vengeance, the present false case has been foisted as against the petitioner. In fact, the second respondent himself transferred the amount to the tune of Rs.1,84,00,000/- to the petitioner's account in order to purchase the immovable property and as such it was not transferred fraudulently and only it was transferred only by the account holder. Even now, the petitioner is ready and willing to return the money, on condition that the second respondent shall return all her jewels which were presented during their marriage.

4. The learned counsel appearing for the second respondent submitted that without the knowledge of the second respondent, the petitioner misappropriated the amount to the tune of Rs.1,84,00,000/- from the account of the second respondent. The petitioner herself transferred the amount to her personal account. After the marriage, the second respondent used to visit Hyderabad and as such the petitioner was permitted to operate the account and as such she knows about the pin number and other password of the account. Due to Covid-19, the second



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respondent was in Hyderabad and utilizing the said circumstances, the petitioner herself transferred the sum of Rs.1,84,00,000/- to her personal account and cheated the second respondent. Further, the petitioner filed petition for maintenance seeking monthly maintenance and in the said petition also, she did not wispher about the jewels which were allegedly in possession of the second respondent. Therefore, there is absolutely no jewels were presented at the time of marriage, since the second respondent is a millionaire himself, and he had no need to demand any jewels. Futher, the divorce petition filed by the second respondent is also pending before the Family Court.

5. The learned Government Advocate (Crl. Side) appearing for the first respondent police would submit that the investigation is almost completed and the respondent police have only to file final report.

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

7. It is seen that though the second respondent and the petitioner are husband and wife due to misunderstanding they got



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separated and are living separately. On perusal of the statement of account a sum of Rs.1,84,00,000/- had been transferred to the petitioner's personal account. Though it was transferred through RTGS, the second respondent had no knowledge about the transfer of entire amount in favour of the petitioner. Due to misunderstanding and due to their separation, the petitioner herself had fraudulently transferred the entire amount from the second respondent account to her personal account. In fact, at the time of the anticipatory bail petition filed by the petitioner, though the matter was referred for mediation, there was no settlement between the parties before the mediation. There was a misappropriation of amount to the tune of Rs.1,84,00,000/- and it has to be investigated further to find out the truth.

8. 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 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



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investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

9. 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.



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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.

10. 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 :-

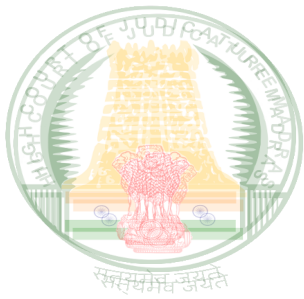
“23.

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*



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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 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;”

11. In view of the above discussions, this Court is not inclined to



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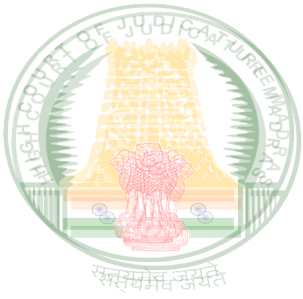
quash the First Information Report. However, considering the crime is of the year 2022, the first respondent is directed to complete the investigation in Crime No.181 of 2022 and file a final report within a period of twelve weeks from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed.

12. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

21.04.2025

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

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G.K.ILANTHIRAIYAN, J.

rts

To

1. The Inspector of Police,
Central Crime Branch-I,
CCB Team-I, Chennai.

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

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and Crl.M.P.No.9747 of 2023

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