

CrI.OP.Nos.16647 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.04.2025

CORAM:

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

CrI.O.P.No.16647 2023

and

CrI.MP.No.10644 of 2023

1. Samina Juzar
2. Mohsin Juzar
3. Zainab Mohsin

... Petitioners

Vs.

1. The Inspector of Police,
Central Crime Branch,
Coimbatore City,
Coimbatore District.

2. Denston

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C to call for the records relating to the case in Cr.No.19 of 2023 pending investigation on the file of the first respondent police and quash the same.

For Petitioners : Mr.K.G.Senthil Kumar

For Respondents : Mr.A.Gopinath
Government Advocate (CrI.Side)
for R1
: Mr.P.Thangavel for R2



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ORDER

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This Criminal Original Petition has been filed to quash the FIR registered in Cr.No.19 of 2023 on the file of the first respondent.

2. The case of the prosecution is that that the defacto complainant had invested Rs.1,80,00,000/- in the petitioners trading corporation namely M/s.Global Marketing, Manufacturing Enterprises, Excellent Trading Corporation and SZ Marketing in which the petitioners and two other family members were the directors. The second respondent was approached by the petitioners and two other accused on 02.04.2019. Since the petitioners has got an order from the Government of Kerala (KSEB) for supply of electrical equipments and showed the purchase order of KSEB and if the second respondent invest , they would get 43% profit out of which 30% will be shared by them and 13% will be given to the second respondent per month for, which the petitioners and two other accused has undertaken to deposit the original title deeds as security of their house and plots at Kollam, Kerala. Based on the assurance, the second respondent had invested a sum of Rs.1,80,00,000/- on various dates commencing from 17.05.2019 and given it to the



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petitioners by way of A/c transfer and they have executed a joint promissory note for a sum of Rs.40,00,000/- and the petitioners and the family members who have been arrayed as a co-accused had executed a letter of undertaking and agreement of sale of a property situated at Kemmarampalayam, Karamadai, Mettupalayam Taluk in the presence of K.Natarajan, Notary Public on 12.09.2019 and a letter of undertaking was given by A1. Thereafter, they have not shared the profit and returned a sum of Rs.1,00,00,000/- from investment made by him on various dates till the date of filing. Finally when the accounts were audited , they agreed to settle a sum of Rs.5,81,80,000/- ie., Rs.1,45,00,000/- capital + Rs.4,36,80,000/- profit and gave 10 cheques on 31.07.2021 and when the same was presented some accounts were closed some cheques returned as funds insufficient and payment stopped and cheated the second respondent of a sum of Rs.5,81,80,000/- i.e., (Rs.1,45,00,000/- capital + Rs.4,36,80,000/- Profit) Hence, the complaint.

3. On the complaint lodged by the second respondent, the first



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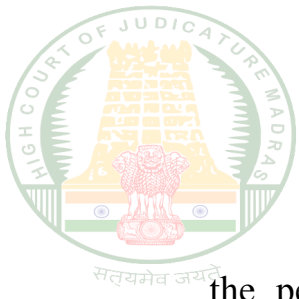
respondent has registered an FIR against the petitioners in Cr.Nos.19 of 2023 for the offence punishable under Sections 120B, 406, 420 and 506(i) of IPC.

4. The learned counsel appearing for the petitioner submitted that it is only money transaction between the petitioner and second respondent. There is no offence made out under Section 406 and 420 of IPC. Infact, the entire allegations are civil in nature. He further states that the petitioner also filed a suit in O.S.No.348 of 2021 and it is pending.

5. The learned Government Advocate (CrI.Side) appearing for the respondent police and the learned counsel appearing for the second respondent reiterated the prosecution case and opposed to allow the petition.

6. Heard both sides and perused the materials available on record.

7. A perusal of records revealed that in one hand the petitioner had assured that share with the parties and on the other hand filed a suit not to take any steps with regards to the documents submitted by



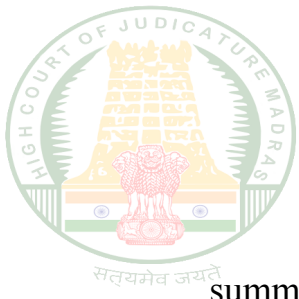
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the petitioner at the time of receiving deposits from the second respondent.

8. . It is seen from the First Information Report that there are specific allegations as against the petitioner to attract the offences 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 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.

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 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



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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



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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 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*



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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 quash the First Information Report. However, considering the crime is of the year 2023, the first respondent is directed to complete the investigation in Crime No.19 of 2023 and file a final



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report within a period of two months from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed.

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

08.04.2025

Vv

To

1. The Inspector of Police,
Central Crime Branch,
Coimbatore City,
Coimbatore District.
2. The Public Prosecutor,
Madras High Court,
Chennai.

G.K.ILANTHIRAIYAN, J.



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