



Crl.O.P.No.16459 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.16459 of 2023
and Crl.M.P.No.10527 of 2023

Rajkumar Samuel Ebenezer

... Petitioner

Vs.

1. The Inspector of Police,
Kuniamuthur Police Station,
Coimbatore.

2. Renuka

... Respondents

Prayer: Criminal Original petition filed under Section 428 of Cr.P.C., to call for records relating to the FIR in Crime No.123 of 2023 on the file of the Inspector of Police, Kuniyamuthur Police Station, Coimbatore and to quash the same on such terms and conditions.

For Petitioner : Mr.J.Kingsly Solomon

For Respondents

For R1 : Mr.R.Vinothraja
Government Advocate (Crl. Side)

For R2 : Mrs.V.Gayathri



Crl.O.P.No.16459 of 2023

ORDER

WEB COPY

This Criminal Original Petition has been filed to quash the FIR in Crime No.123 of 2023, pending on the file of the first respondent police, registered for the offence under Sections 406 & 420 of IPC.

2. On the complaint lodged by the second respondent, the first respondent registered the FIR in Crime No.123 of 2023, alleging that the second respondent's husband and the petitioner are close friends and they were Captain in their respective ships. On the false assurance given by the petitioner and his wife, the second respondent and her husband invested a sum of Rs.48,00,000/- in the petitioner's wife's business and also assured to share the profit. But the accused persons did not start any business and never shared any profit. Thereafter, they refused to return the money. Hence the complaint.

3. The learned counsel appearing for the petitioner submitted that totally there are two accused in which the petitioner is arrayed as A1. Even according to the second respondent, she entered into agreement with the second accused viz., wife of the petitioner. The petitioner was in the ship at the time, they entered into agreement and he is in no way



Crl.O.P.No.16459 of 2023

connected with the business transaction of the second respondent and the second accused.

4. The learned counsel appearing for the second respondent submitted that the petitioner is the Managing Director of JP ADS & SIGNAGE and both the accused persons viz., the petitioner and his wife told that they are running the company called JP ADS & SIGNAGE in a successful manner and if the second respondent invested money, they assured that they will share the accruing profits. Believing the said words, the second respondent and her husband had invested a sum of Rs.48,00,000/- with the petitioner and his wife. However, they were not running any business and no profit was shared with the second respondent. They also refused to return back the money.

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 is yet to file the final report.

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



Crl.O.P.No.16459 of 2023

WEB COPY

7. 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 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.

8. 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



Crl.O.P.No.16459 of 2023

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.

9. Further the Hon'ble Supreme Court of India issued directions in the judgment reported in **2021 SCC Online SC 315** in the case of



Crl.O.P.No.16459 of 2023

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 known procedure;*

.....

xv) *When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the*



WEB COPY



Crl.O.P.No.16459 of 2023

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;”

10. 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.123 of 2023 and file a final report within a period of eight weeks from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed.

11. 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
rts



WEB COPY



Crl.O.P.No.16459 of 2023

G.K.ILANTHIRAIYAN, J.

rts

To

1. The Inspector of Police,
Kuniamuthur Police Station,
Coimbatore.

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

Crl.O.P.No.16459 of 2023
and Crl.M.P.No.10527 of 2023

21.04.2025