



Crl.O.P.No.21415 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2025

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CORAM:

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

Crl.O.P.No.21415 of 2023
and Crl.M.P.No.14766 of 2023

1. Sivabalan
2. Sugumar

... Petitioners

Vs.

1. The Union Territory of Puducherry
(Rep by the SHO Mudaliarpeta PS)
Cuddalore Road,
Bharathidasan Nagar,
Mudaliarpeta,
Puducherry – 605 004.
(Crime No.158 of 2023)

2. Udayakumar

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records and quash the FIR No.158/2023 dated 12.08.2023 registered at PS Mudaliarpeta.

For Petitioners : Mr.K.Sarath Chandran

For Respondents

For R1 : Mr.M.V.Ramachandranmurthy
Additional Public Prosecutor (Pondy)

For R2 : Mr.P.Anbazhagan



Crl.O.P.No.21415 of 2023

ORDER

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This petition has been filed to quash the F.I.R. in Crime No.158 of 2023 registered by the first respondent police for offences under Sections 294(b), 323, 34, 506(1) of IPC and Sections 3(1)(r) & 3(1)(s) of the Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as “the SC/ST Act”), as against the petitioners.

2. On the complaint lodged by the second respondent, the first respondent registered the FIR in Crime No.158 of 2023, for the offences punishable under Sections 294(b), 323, 34, 506(1) of IPC and Sections 3(1)(r) & 3(1)(s) of the SC/ST Act, alleging that the second respondent is an Advocate and his wife is running battery service centre in the name of Sri Kalaivani Battery Service and United Power System for the past ten years. While being so, the first accused was in due with regard to their business transactions, which resulted in three suits which are pending before the civil Court at Pudhucherry. In order to settle the issue amicably, the first accused called the second respondent to hotel Arunachala at about 4 pm., on 09.11.2022. Believing said words, the second respondent went to the hotel Arunachala and waiting in his car.



Crl.O.P.No.21415 of 2023

Thereafter, the first accused called him to come to the room. After he entering into the room, the accused persons closed the door. When the second respondent insisted to settle the sum of Rs.2,00,00,000/-, for which, the accused compelled him to receive 50% of the said amount. While the negotiation was going on, the accused insisted to receive 50% of the amount and when the second respondent refused to accept the said settlement, he was attacked by the accused and was also abused using his caste name. Thereafter, the second respondent escaped from their custody and admitted into the hospital. Hence the complaint.

3. The learned counsel appearing for the petitioners submitted that for the alleged incident, the second respondent filed the private complaint under Section 156(3) of Cr.P.C., in Crl.M.P.No.10821 of 2022 on the file of the learned Judicial Magistrate No.III, Puducherry, and the same was dismissed as not pressed by an order dated 19.12.2022. Once again, suppressing the said fact, another petition has been filed under Section 156(3) of Cr.P.C., in Crl.M.P.No.2754 of 2023 on the file of the learned II Additional District Judge, Pudhucherry and obtained order for registration of FIR. Even assuming that the allegations are true, the SC/ST Act would not attract, since the alleged occurrence took place



Crl.O.P.No.21415 of 2023

WEB COPY

inside the room and not in the public view. In order to attract the offence under Sections 3(1)(r) & 3(1)(s) of the SC/ST Act, the occurrence should have been taken place within the public view. Therefore, the main ingredients of the offence under Sections 3(1)(r) & 3(1)(s) of the SC/ST Act, are not at all made out.

3.1. He further submitted that in order to attract the offence under Section 294(b) of IPC, the words uttered by the person should have annoyed others. Therefore, the offence under Section 294(b) is not at all attracted as against the petitioners. Mere using of threat does not make out a case for the offence under Section 506(ii) of IPC. He further submitted that the second respondent is being an Advocate, he shall not do any business. In fact, he is also facing case before the Bar Council of Tamil Nadu in D.C.C.No.83 of 2023.

4. The learned counsel appearing for the second respondent submitted that the second respondent never conducted any business and his wife is running the battery service centre in the name of Sri Kalaivani Battery Service and United Power System. There are documents to show that the first accused is in due of huge amount to the second respondent's



Crl.O.P.No.21415 of 2023

wife. In fact, on the request made by the first accused, the second respondent being an Advocate, went to the hotel Arunachala for negotiation. When the second respondent went to the hotel for negotiation, he was attacked by the petitioners and also he was abused by using his caste name.

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

6. It is seen that the earlier private complaint lodged by the second respondent was dismissed as not pressed since the learned Judicial Magistrate No.III, Puducherry, has no jurisdiction to entertain the complaint filed under SC/ST Act. Therefore, the second respondent not pressed the earlier complaint and filed the present complaint in Crl.M.P.No.2754 of 2023 before the learned II Additional District Judge, Puducherry. Hence, there is absolutely no impediment to lodge second complaint that too after withdrawal of the first complaint on the ground of jurisdiction.



Crl.O.P.No.21415 of 2023

7. Further it is seen from the First Information Report that there are specific allegations as against the petitioners 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.21415 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.21415 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



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Crl.O.P.No.21415 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.158 of 2023 and file a final report within a period of four weeks from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed.

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

20.03.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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Crl.O.P.No.21415 of 2023

G.K.ILANTHIRAIYAN, J.

rts

To

1. The SHO,
Mudaliarpet PS,
Cuddalore Road,
Bharathidasan Nagar,
Mudaliarpet,
Puducherry – 605 004.

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

Crl.O.P.No.21415 of 2023
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