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Crl.O.P.No. 21557 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2025

CORAM:

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

Crl.O.P.No.21557 of 2023 and
Crl.M.P.No.14847 of 2023

1.Gibson Sam
2.Sofia Raj Kalal

... Petitioners

Vs.

1.State rep by:
Inspector of Police,
W-13, All Women Police Station,
Thiruvottiyur High Road,
Tondiarpet, Chennai 600 081.
(Crime No.1 of 2023).

2.Getsee Sornabai

..Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in the Crime No.1 of 2023 on the file of first respondent and quash the same as against the petitioner.

For Petitioner : Mr.M.Sundaramurthy

For R1 : Mr.R.Vinothraja,
Government Advocate (crl.side)



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Crl.O.P.No. 21557 of 2023

For R2

: Mr.N.Vijayaraj

ORDER

This petition has been filed to quash the FIR in Crime No.1 of 2023 on the file of the first respondent, registered for the offences punishable under Sections 284(b), 354A of IPC and Section 67 of Information Technology Act, 2000.

2. The case of the prosecution, as per FIR, is that on 04.07.2021, at around 4:00 P.M., while the second respondent and her husband were at their residence, the petitioners allegedly stood at their doorstep and verbally abused them in a derogatory and humiliating manner. At that time, the second respondent was dressed in a nightgown. During the altercation, the first petitioner, allegedly recorded a video of the second respondent while she was reacting angrily. The said video was subsequently circulated via WhatsApp to a group, causing mental distress and embarrassment to the second respondent. Later, on 01.01.2023, while the second respondent was at church, she was informed that the same video had been uploaded as a Facebook story by



Crl.O.P.No. 21557 of 2023

WEB COPY

one Rajan Samuel. When the same was questioned, he allegedly responded in a rude and intimidating manner, stating that he would continue to act in the same way unless the second respondent withdrew from an ongoing dispute. Based on this, the first respondent registered a case in Crime No.1 of 2023 for the offences punishable under Sections 284(b), 354A of IPC and Section 67 of Information Technology Act, 2000.

3. The learned counsel for the petitioners submitted that even according to the second respondent, the first petitioner had merely recorded a video while the second respondent was wearing a nightgown, and there was no obscene content in the said videograph or photograph. It is further submitted that there is no evidence to show that the first petitioner had uploaded or posted the said video on any social media platform. The first petitioner's mother did not enter the house of the second respondent at any point in time. Therefore, it is contended that a false and motivated complaint has been foisted against the petitioners with an ulterior intention. Hence, he prays to quash the FIR.



Crl.O.P.No. 21557 of 2023

WEB COPY

4. Per contra, the learned counsel for the second respondent submitted that after recording the video, the first petitioner had uploaded the same on Facebook and other social media platforms. Several enquiries and calls were received by the second respondent regarding the video that was posted online, causing her mental agony and social embarrassment. It is further alleged that the petitioners came to the residence of the second respondent and abused her in filthy language, thereby outraging her modesty. In fact, the First Information Report was registered only pursuant to the direction issued by this Court in Crl.O.P. No.22505 of 2021 dated 20.07.2022. Therefore, there are specific and sufficient allegations to attract the offences punishable under Sections 294(b) and 354A of the IPC, as well as Section 67 of the Information Technology Act, 2000. Hence, he prays for the dismissal of this petition.

5. The learned Government Advocate (Crl. Side) submitted that the first petitioner videographed the second respondent without her consent and circulated it on social media. He further submitted that the



Crl.O.P.No. 21557 of 2023

WEB COPY

petitioners used filthy language, thereby outraging her modesty. Hence, the offences punishable under Sections 294(b), 354A of IPC, and Section 67 of the IT Act are made out.

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

7. On a perusal of the First Information Report, this Court finds that there are specific and serious allegations as against the petitioners which attract the ingredients of cognizable offences and warrant thorough investigation. The act of unauthorized videographing and alleged circulation on social media, coupled with verbal abuse, *prima facie* attracts the invoked offences. It is well settled that an FIR is not expected to be an encyclopaedia of facts. The FIR in the present case discloses a *prima facie* commission of cognizable offences. Hence, this Court is not inclined to quash the FIR at this stage. The investigation machinery must be allowed to proceed in accordance with law to unearth the truth and bring the guilty to book.



Crl.O.P.No. 21557 of 2023

WEB COPY

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 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



Crl.O.P.No. 21557 of 2023

WEB COPY

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 ***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 encyclopedia 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*



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Crl.O.P.No. 21557 of 2023

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 in Crime No.1 of 2023. The first respondent is directed to complete the investigation in Crime No.1 of 2023 and file the 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.

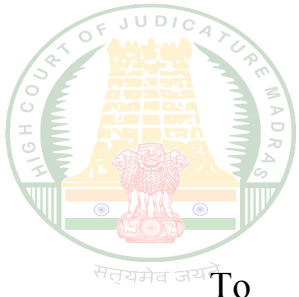
11. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

27.03.2025

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

G.K.ILANTHIRAIYAN, J.

shk



Crl.O.P.No. 21557 of 2023

To
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1.The Inspector of Police,
W-13, All Women Police Station,
Thiruvottiyur High Road,
Tondiarpet, Chennai 600 081.

2. The Public Prosecutor,
High Court, Madras.

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