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Crl.O.P.No.26844 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2025

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.26844 of 2024

and

Crl.M.P.No.14899 of 2024

V.Gowtham

... Petitioner

Vs

1. The State Rep. by
The Sub Inspector of Police,
Jolarpet Police Station,
Thirupathur.
(Crime No.499 of 2024)

2. Shakila Banu

... Respondents

Criminal Original Petition is filed under Section 482 of Cr.P.C./
Section 528 of B.N.N.S., to quash the Crime No.499 of 2024 on the file of
the Sub Inspector of Police, Jolarpet Police Station, Thirupathur.

For Petitioner : Mr.S.Haja Mohideen Gisthi

For Respondents : Mr.R.Vinothraja,
Government Advocate (Crl. Side) for R1
Ms.B.Priyanka (for R2)



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ORDER

This petition has been filed to quash the First Information Report in Crime No.499 of 2024 on the file of the first respondent Police.

2. The case of the prosecution is that on the complaint lodged by the second respondent, the first respondent registered the First Information Report in Crime No.499 of 2024 for the offences punishable under Sections 120B, 409, 417, and 420 of IPC, alleging that the second respondent was introduced to the first accused by the petitioner herein. Both assured that, after furnishing the Aadhar Card of the second respondent and other victims, they would disburse a loan of Rs.10,000/- to each person under the Women Self Help Group. Accordingly, the petitioner, along with other persons, submitted their Aadhar Card and passport-size photos and also signed the paper. On receipt of the same, they were disbursed a sum of Rs.9,725/- each, totalling 90 persons, for a total sum of Rs.8,75,000/-. After some time, a letter of demand was received by the second respondent and other victims, and as such, they were disbursed a sum of Rs.1,00,000/- each, and directed the second respondent and other victims to pay their loan to the tune of Rs.1,00,000/-. The second respondent further alleged that she never



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approached the petitioner herein. The petitioner, along with the first accused, insisted that the second respondent and other victims furnish a copy of their Aadhar Cards and passport-size photos. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is the Manager of Bank of Baroda. The second respondent and others approached the petitioner to avail a loan under the Scheme without any security. The petitioner, being the Manager of the said Bank, has the power to disburse a loan to the tune of Rs.10,00,000/- for each Women Self Help Group consisting of 10 members. Accordingly, the petitioner disbursed loans to several Women Self Help Groups. The petitioner also produced the loan account details, showing that the petitioner disbursed a loan to the tune of Rs.10,00,000/- in favour of each Women Self Help Group consisting of 10 members. He would further submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.499 of 2024 for the offences under Sections 120B, 409, 417, and 420 of IPC, as against the petitioner. Hence he prayed to quash the same.



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

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

6. The specific allegations against the petitioner are that the petitioner conspired with the first accused; after receiving the Aadhar Cards and other details, they disbursed only a sum of Rs.1,00,000/- instead of Rs.10,00,000/-. The second respondent and other victims never went to the Bank and never signed to withdraw any amount from the Bank. They themselves created loan accounts, credited the loan amount into the said accounts, and withdrew the loan amount. Finally, they were disbursed only Rs.10,000/- instead of Rs.1,00,000/-. Accordingly, they deemed it believable that they were given Rs.10,000/- as a loan, and they have returned back the loan amount of Rs.1,00,000/- by each member.

7. On a perusal of the records produced by the learned counsel for



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the petitioner, it reveals that the loan was disbursed to each Women Self Help Group to the tune of Rs.10,00,000/-. Therefore, it is a big scam, and as such, the first respondent ought to have investigated the crime in depth to find out the truth. 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



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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 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



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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 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;*



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.....

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; ”

10. In view of the above discussions, this Court is not inclined to quash the First Information Report. However, the first respondent is directed to complete the investigation in Crime No.499 of 2024 and file a final report within a period of three months from the date of receipt of a 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.

25.03.2025



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Index: Yes/No

Neutral Citation: Yes/No

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To

1. The Sub Inspector of Police,
Jolarpet Police Station,
Thirupathur.
2. The Public Prosecutor,
High Court of Madras.



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G.K.ILANTHIRAIYAN, J.

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