



Crl.O.P.No.5386 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 26.03.2025

CORAM:

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

Crl.O.P.No.5386 of 2025
and Crl.M.P.No.3491 of 2025

1.A.D.Arjunai
2.A.Naveena
3.M.Prabhakaran
4.A.Kathika
5.Aravind Raj Kumar

... Petitioners

Vs.

1. The State Rep. by
The Inspector of Police,
Thirubuvanai Police Station,
Puducherry.

2. Y.Vijayasimwan

... Respondents

PRAYER: Criminal Original Petition filed under Section 528 of BNSS/Section 482 of Cr.P.C praying to call for the records and quash the proceedings in FIR No.36 of 2024 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.I.Calvin Jones

For R1 : Mr.K.S.Mohandas
Public Prosecutor (Pondy.)



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ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No. 36 of 2024 on the file of the first respondent.

2. The case of the prosecution is that the second respondent/de-facto complainant used to supply rice to Arunachala and Co-Madurai since based on the agreement between him (Sri krishna Modern Rice Mills) and the 1st petitioner (M/s.Arunachala and Co-Madurai). He further alleged that the 1st petitioner defaulted in payment of goods supplied to the tune of Rs.357,58569/- . When the 2nd respondent asked the above said firm partners Arunjunai (A1) and his wife Naveena (A2), they never responded and also switched of their phones. Further, it is alleged that the 1st petitioner changed their firm name in favour of their son-in-law(3rd petitioner) and also changed old GST number and registered new GST number in favour of their son-in-law. Thereby, the 2nd respondent/Defacto complainant sought for action as against the 1st petitioner his wife Naveena (A2) for deliberate non-payment of Rs.3,57,58,560/- to the goods supplied. On the strength of the said complaint, the respondent police registered the FIR in Crime No.36 of 2024 for the offence punishable under Sections 420 of IPC as against the petitioners.



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WEB COPY3. The learned Counsel appearing for the petitioners would submit that it is only business transaction and hence, the offence under Section 406 of IPC is not at all attracted.

4. On perusal of the records would show that the petitioner and the second respondent are doing business in the year 2016 and the petitioner failed to make out payment and thereafter the petitioner also changed the GST number in favour of their son-in-law and are continuously doing the business in different names and thereby cheating by the second respondent. Therefore, the offence under Section 420 of IPC is made out as against the petitioner .

5. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.side) for the first respondent and perused materials available on record.

6. 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



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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.

7. 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



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can be considered for quashment. Therefore, it is not necessary that a

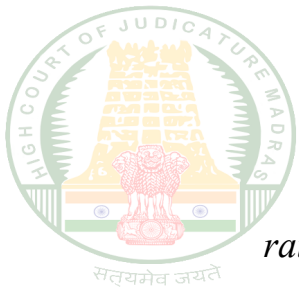
meticulous analysis of the case should be done before the trial to find out whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in the light of the statement made on oath that the ingredients of the offence are 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.

8. 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;

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.....

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 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;”



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9. 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 No36 of 2024 and file a final report within a period of twelve weeks from the date of receipt of copy of this Order, before the jurisdiction Magistrate, if not already filed.

10. Accordingly, this Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petitions are closed.

26.03.2025

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

kkd

G.K.ILANTHIRAIYAN, J.

kkd

To

1. The Inspector of Police,



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Chidambaram Taluk Police Station,
Cuddalore District.

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2. The Public Prosecutor,
High Court, Madras.

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