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CrI.O.P.No.8426 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.03.2026

CORAM

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

CrI.O.P.No.8426 of 2023

Sathya Moorthy
S/o Chandran

... Petitioner

Vs.

1. State rep by its
The Inspector of Police,
E-5 Sholavaram Police Station,
Sholavaram, Chennai-67
Crime No.194 of 2023

2. S. Venkatesan

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C to call for the entire records comprised in FIR in Crime No.194 of 2023 dated 07.03.2023 pending on the file of the first respondent, The Inspector of Police, E-5, Sholavaram Police Station, Sholavaram, Tiruvalluvar District and quash the same against the petitioner/Accused-1 and pass orders.

For Petitioner : Ms.C.Anju Kavar
for Mr.M.Vimal Bobby Crimson
For Respondent : Mr.L. Baskaran, Govt Advocate



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ORDER

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This Criminal Original Petition is filed to quash the F.I.R dated 07.03.2023 registered for the offences under Sections 353,506(I),328 of I.P.C and under section 24(1) of Cigarette and other Tobacco Products Act, 2003.

2. The case of the prosecution is that on 07.03.2023 at about 7:00 hours, the respondent received a secret information from the complainant that a group of persons were standing opposite to Ganapathy Grocery store. Hence, the respondent police went to the spot and conducted enquiry and on seeing the police the petitioner/first accused attempted to run away from the spot. It is alleged that the petitioner/first accused attempted to move from the spot and on enquiry it is found that the first accused was in possession of 1. Hans 8.5 gunny bags 2. Vimal 5 gunny bags 3. Cool lip 12 gunny bags 4. Swagat 5 gunny bags and cash Rs.1,69,000/- and the said products were purchased from Bangalore and kept in Godown by himself and the second accused.

3.After seizure of the Tobacco products, the first respondent registered the F.I.R in Crime No.194 of 2023 for the offences under



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Section 353, 506(I), 328 of IPC and under Section 24(1) of Cigarette and other tobacco products Act, 2003.

4. Even according to the prosecution, the second accused never attempted to sell the banned tobacco product and the brother of the first accused is the owner of the lorry which is used to transport the illegal banned tobacco products. The first respondent/police failed to prove the allegations as against the second accused in the F.I.R

5. On perusal of the documents reveals that though the petitioner states that the entire tobacco products were purchased by the second accused from Bangaloare and kept it in a godown, there is no recovery of banned tobacco products from the second accused.

6. 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



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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 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.

7. 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 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;”

8. In view of the above discussions, this Court is not inclined to quash the First Information Report against the petitioner/first accused. Though the second accused did not file any petition to quash the F.I.R, in order to meet the ends of justice the F.I.R is quashed in respect of the second accused alone. However, the first respondent is directed to complete the



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investigation in Crime No.194 of 2023 and file a final report within a period of twelve weeks from the date of receipt of a copy of this Order, before the jurisdiction Magistrate, if not already filed.

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

26.03.2026

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
smn

To.

1. The Inspector of Police,
E-5 Sholavaram Police Station,
Sholavaram, Chennai-67

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



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G.K.ILANTHIRAIYAN, J
smn

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