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Crl.O.P.No.2674 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2025

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.2674 of 2025
and
CrI.M.P.Nos. 1725 & 1726 of 2025

1. Deenadhayalan
2. D.Murugan

.... Petitioners

Vs

1. State of Tamil Nadu,
represented by Inspector of Police,
Manali Police Station,
(FIR No.896 of 2017)
Madhavaram,
Tiruvallur District.

2. Sundharraj Respondents

Prayer: Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in S.C.NO.223 of 2024 on the file of the IV Additional District and Sessions Judge, Ponneri and quash the same.

For Petitioners : Mr.M.Devaraj

For R1 : Mr.K.M.D.Muhilan
Government Advocate (Crl.Side)



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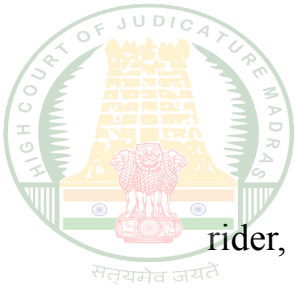
ORDER

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This Criminal Original Petition has been filed to quash the proceedings in S.C.No.223 of 2024 on the file of the IV Additional District and Sessions Judge, Ponneri.

2. The case of the prosecution is that while the second respondent was working as a bus driver at the Thondairpet Bus Depot, the petitioners were working as Conductors in the same bus depot. The Government transport workers were on strike against the Tamil Nadu Government, seeking several demands. However, the discussions to resolve the strike ended in failure, leading to the continuation of the strike.

3. While being so, on 15.05.2017, at around 5.45 a.m., the second respondent was operating the bus from the Thondairpet Bus Depot, bearing vehicle No.TN-01-N-5746, on the TDI 1515 Route No.56D, passing through the police station limits of Manali Police Station. As the second respondent was nearing the Kothari Petro Chemical Company, the first petitioner was riding a motor cycle on the opposite side. The second petitioner, who was travelling as a pillion



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WEB CON rider, allegedly threw a black stone at the front glass of the bus, broken the glass and caused loss to the tune of Rs.3,900/- to the public property.

Fortunately, the driver of the bus viz., the second respondent did not sustain any injury.

4. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No. 896 of 2017 for the offence under Section 3 of TNPPD Act as against the petitioners and the same has been taken cognizance in S.C.No.223 of 2024 on the file of the IV Additional District and Sessions Judge, Ponneri. Hence he prayed to quash the same.

5. The learned Government Advocate (Crl. Side) would submit that the trial has been commenced and the witnesses have been examined in this case.

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



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7. A perusal of the statements of witnesses reveals that there is specific allegations as against the petitioners. Therefore, there are sufficient materials to attract the offence under Section 3 of TNPPD Act as against the petitioners.

8. It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.896 of 2017 for the offence under Section 3 of TNPPD Act. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in S.C.No.223 of 2024 by the Trial Court and it is pending. To quash the said criminal proceeding, the petitioners filed the present petition.

9. The Hon'ble Supreme Court of India in the judgment reported in **2019 (4) SCC 351** in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr., (Crl.A.No.579 of 2019 dated 02.04.2019)** while dealing with the petition to quash the entire criminal proceedings held that the High Courts have no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and therefore, there was no *prima facie* case made out as



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against the accused. It could be done only by the trial Court while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order that the charge sheet has been laid on the basis of the inconsistency statement under 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

10. Further, the Hon'ble Supreme Court of India in the judgment reported in **2019 (10) SCC 686** in the case of ***Central Bureau of Investigation Vs. Arvind Khanna, (Crl.A.No.1572 of 2019*** dated 17.10.2019) held that the High Courts cannot record the findings on the disputed facts. The defence of the accused is to be tested after appreciation of evidence by the trial Court during the trial. Therefore, this Court has no power to consider the disputed facts under 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

11. The Hon'ble Supreme Court of India in another judgment dated **02.12.2019** passed in ***Crl.A.No.1817 of 2019*** in the case of ***M.Jayanthi Vs. K.R.Meenakshi & anr***, held that while considering the petition for quashment of complaint or charge sheet, the Court should not embark upon an enquiry into the validity of the evidence available. All

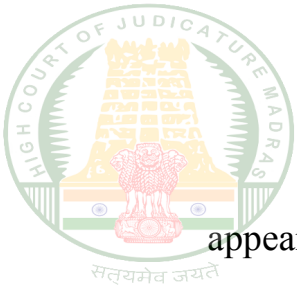


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that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. Further, the Court can also see whether the preconditions requisite for taking cognizance have been complied with or not and whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged. Whether the accused will be able to prove the allegations in a manner known to law would arise only at a later stage i.e., during trial.

12. Further this Court cannot observe at this stage that the initiation of criminal proceeding itself is malicious. Whether the criminal proceeding is malicious or not, is not required to be considered at this state. The same is required to be considered at the conclusion of the trial. Therefore, the ground raised by the petitioners to quash the charge sheet cannot be entertained to quash the entire proceedings.

13. In view of the above discussion, this Court is not inclined to quash the proceedings in S.C.No.223 of 2024 on the file of the IV Additional District and Sessions Judge, Ponneri. The petitioners are at liberty to raise all the grounds before the trial Court. The personal



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appearance of the petitioners is dispensed with and they shall be represented by a counsel after filing appropriate application. However, the petitioners shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 351 of BNSS and at the time of passing judgment.

14. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No
Internet: Yes/No

To
1. The IV Additional District and Sessions Judge,
Ponneri .

2. The Inspector of Police,
Manali Police Station,
Madhavaram,
Tiruvallur District.

3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN,J.

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