



Crl.O.P.No.3515 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2025

CORAM:

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

Crl.O.P.No.3515 of 2025
and Crl.M.P.Nos.2303 & 2304 of 2025

Rekha

... Petitioner

Vs.

Inspector of Police,
J-5, Shastri Nagar Police Station,
1st Avenue, Custom Colony,
Besant Nagar,
Chennai – 600 090.

... Respondent

Prayer: Criminal Original petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records and quash the proceeding laid down in C.C.No.2114 of 2024 on the file of the IX Metropolitan Magistrate, Saidapet and allow the Criminal Original Petition as prayed for.

For Petitioner : Mr.G.Hariharan

For Respondent : Mr.R.Vinothraja
Government Advocate (Crl. Side)



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ORDER

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This petition has been filed to quash the proceedings in C.C.No.2114 of 2024 on the file of the IX Metropolitan Magistrate, Saidapet, as against the petitioner, thereby taken cognizance for the offences under Sections 294(b) & 323 of IPC.

2. The case of the prosecution is that the petitioner and the defacto complainant are friends and when the defacto complainant went to the petitioner's house, it is alleged that the petitioner scolded the defacto complainant with filthy language and also threatened her with dire consequences. Hence the complaint.

3. The learned Counsel appearing for the petitioner would submit that the petitioner is innocent and she has not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.47 of 2023 for the offences under Sections 294(b), 323, 506(1) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, as against the petitioner. After completion of investigation, the respondent filed final report, the same has been taken cognizance in C.C.No.2114 of 2024 on



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the file of the learned IX Metropolitan Magistrate, Saidapet, for the offences under Sections 294(b) & 323 of IPC. Hence he prayed to quash the same.

4. On instruction, the learned Government Advocate (Crl. Side) appearing for the respondent police submitted that the trial has been commenced and some of the witnesses have been examined in this case.

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

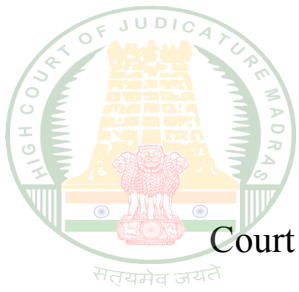
6. It is seen that on the complaint lodged by the defacto complainant, the respondent registered a case in Crime No.47 of 2023 for the offences under Sections 294(b), 323, 506(1) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.2114 of 2024 by the trial Court and it is pending. Now the trial has been commenced and after commencement of trial, it cannot be quashed.



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WEB COPY 7. 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 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 Section 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

8. 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



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Court has no power to consider the disputed facts under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

9. 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 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.

10. 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



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state. The same is required to be considered at the conclusion of the trial.

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Therefore, the ground raised by the petitioner to quash the final report/charge sheet cannot be entertained to quash the entire proceedings.

11. In view of the above discussions, this Court is not inclined to quash the proceedings in C.C.No.2114 of 2024 on the file of the IX Metropolitan Magistrate, Saidapet, The petitioner is at liberty to raise all the grounds before the trial Court. Considering the facts and circumstances, the personal appearance of the petitioner is dispensed with and she shall be represented by a counsel after filing appropriate application. However, the petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment. The trial Court viz., the learned IX Metropolitan Magistrate, Saidapet, is directed to complete the trial in C.C.No.2114 of 2024, within a period of six months from the date of receipt of copy of this Order.



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

10.02.2025

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

rts

To

1. The IX Metropolitan Magistrate,
Saidapet.

2. The Inspector of Police,
J-5, Shastri Nagar Police Station,
1st Avenue, Custom Colony,
Besant Nagar,
Chennai – 600 090.

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



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